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The *California Regulatory Notice Register* is an official state publication of the Office of Administrative Law containing notices of proposed regulatory actions by state regulatory agencies to adopt, amend or repeal regulations contained in the California Code of Regulations. The effective period of a notice of proposed regulatory action by a state agency in the *California Regulatory Notice Register* shall not exceed one year [Government Code § 11346.4(b)]. It is suggested, therefore, that issues of the *California Regulatory Notice Register* be retained for a minimum of 18 months.

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PROPOSED ACTION ON REGULATIONS

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TITLE 5. BOARD OF EDUCATION

NOTICE OF PROPOSED RULEMAKING

The State Board of Education (State Board) proposes to adopt the regulations described below after considering all comments, objections, or recommendations regarding the proposed action.

PROPOSED REGULATORY ACTION

The State Board proposes to amend Subchapter 21 (Sections 11980–11986, Mathematics and Reading Professional Development Program) Chapter 11, Division 1 of Title 5, California Code of Regulations

PUBLIC HEARING

The State Board will hold a public hearing starting at 11:00 a.m. on Thursday, May 30, 2002, at 721 Capitol Mall, Room 166. The room is wheelchair accessible. At the hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest. The State Board requests that any person desiring to present statements or arguments orally notify the agency of such intent. No oral statements will be accepted subsequent to this public hearing.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the State Board. All written comments must be received no later than the close of the public hearing scheduled to start at 11:00 a.m. on Thursday, May 30, 2002. Requests to present oral statements at the public hearing or written comments for the State Board's consideration should be directed to:

Pat McGinnis, Regulations Adoption Coordinator
California Department of Education
721 Capitol Mall, Room 556
P. O. Box 944272
Sacramento, California 94244-2720
(916) 657-4669 FAX: (916) 657-3844
E-mail: pmcginni@cde.ca.gov

AUTHORITY AND REFERENCE

Authority for these regulations is found in Education Code sections 33031 and 99236. Education Code section 33031 is the State Board's general authority to adopt rules and regulations for the government of the day and evening schools of the state. Education Code Section 99236 is the specific authority for the California Department of Education to design, and the State Board of Education to approve, regulations for implementation and monitoring of the Mathematics and Reading Professional Development Program

INFORMATIVE DIGEST AND POLICY STATEMENT OVERVIEW

Assembly Bill 466 (Chapter 737), Statutes of 2001, established the Mathematics and Reading Professional Development Program. The Program will greatly assist efforts to increase academic performance in California schools by enabling 176,000 teachers and 22,000 instructional aides and paraprofessionals to participate in high-quality professional development activities in mathematics and reading/language arts over a four-year period.

The proposed regulations respond to requirements in Education Code section 99236 that the State Board of Education shall authorize the Superintendent of Public Instruction to design, and the board shall approve, regulations for the implementation and monitoring of the program. The Superintendent of Public Instruction shall provide funding to a local educational agency in accordance with the funding methodology specified in Education Code sections 99234 and 99235 and with regulations adopted by the State Board of Education.

In addition to addressing the items specifically required by Education Code section 99236, the proposed regulations define and clarify the assurances of compliance that must be provided by local educational agencies participating in the program to the State Board of Education and the California Department of Education, the teachers, paraprofessionals, and instructional aides eligible to participate in the program, program funding allocation, the allowance of consortia applications, and the timeline within which local educational agencies must adopt instructional materials to be used in providing professional development in mathematics and reading/language arts via this program.

DISCLOSURES REGARDING THE PROPOSED ACTION

Mandate on local agencies and school districts: None

Cost or savings to any state agency: None

Cost to any local agency or school district that must be reimbursed in accordance with Government Code section 17561: None

Other non-discretionary cost or savings imposed upon local agencies: None

Cost or savings in federal funding to the state: None

Cost impact on representative private person or business: The State Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Impact on business: The State Board has made an initial determination that the proposed regulatory changes will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to complete with businesses in other states.

Significant effect on housing costs: The State Board has made an initial determination that the proposed regulatory action would not affect housing costs.

Effect on small business: None, because these regulations are directed to local educational agencies which are not small businesses.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5(a)(13), the State Board must determine that no reasonable alternative considered by the State Board or that has otherwise been identified and brought to the attention of the State Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The purpose of the proposed regulations is to clarify the assurances adhered to by local educational agencies in administering the Mathematics and Reading Professional Development Program professional development, as well as eligibility criteria, funding allocations, and the timeframe that instructional materials must be available to students in participating schools. The State Board does not believe that existing law absent these regulations achieves that objective. Moreover, the State Board has been unable to identify any alternative to the proposed regulations that achieves the objective. The State Board invites interested persons to present statements or arguments regarding alternatives to the proposed regulations at the above-mentioned hearing or during the written comment period.

ASSESSMENT REGARDING CREATION OR ELIMINATION OF JOBS IN CALIFORNIA

The State Board has made an assessment and determined that the adoption of the proposed regulations will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

CONTACT PERSONS

Inquiries concerning the substance of the proposed action should be directed to:

Kathie Scott, Education Programs Consultant
California Department of Education
Reading/Language Arts Leadership Office
830 "S" Street
Sacramento, CA 95814
Telephone: (916) 323-6269 Fax: (916) 323-2928
E-Mail: kscott@cde.ca.gov

Requests for a copy of the proposed text of the regulations, the initial statement of reasons, the modified text of the regulations, if any, or other technical information upon which the rulemaking is based should be directed to:

Pat McGinnis, Regulations Adoption Coordinator
California Department of Education
721 Capitol Mall, Room 552
P. O. Box 944272
Sacramento, California 94244-2720
(916) 657-4669 FAX Number: (916) 657-3844

Or: Debra Strain
(916) 657-4440

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Regulations Adoption Coordinator will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at her office, at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, and the initial statement of reasons. A copy may be obtained by contacting the Regulations Adoption Coordinator at the address or telephone number listed above or accessing the California Department of Education's website at <http://www.cde.ca.gov/regulations>. Upon its completion, the Final Statement of Reasons will be available and copies may be requested from the Regulations Adoption Coordinator or viewed on the website.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

Following the public hearing, the State Board may adopt the proposed regulations substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the modified text, with changes clearly indicated, will be made available to the public for at least 15 days prior to the date on which the State Board adopts the regulations. Requests for copies of any modified regulations should be sent to the attention of the Regulations Adoption Coordinator at the address

indicated above. The State Board will accept written comments on the modified regulations for 15 days after the date on which it is made available.

TITLE 8. OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

NOTICE OF PUBLIC MEETINGS/PUBLIC HEARING/BUSINESS MEETING OF THE OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD AND NOTICE OF PROPOSED CHANGES TO TITLE 8 OF THE CALIFORNIA CODE OF REGULATIONS

Pursuant to Government Code Section 11346.4 and the provisions of Labor Code Sections 142.1, 142.2, 142.3, 142.4, and 144.6, the Occupational Safety and Health Standards Board of the State of California has set the time and place for a Public Meeting, Public Hearing, and Business Meeting:

PUBLIC MEETING: On **May 16, 2002** at 11:00 a.m. in the Auditorium of the California State Building, 1350 Front Street, San Diego, California.

At the Public Meeting, the Board will make time available to receive comments or proposals from interested persons on any item concerning occupational safety and health.

PUBLIC HEARING: On **May 16, 2002** following the Public Meeting in the Auditorium of the California State Building, 1350 Front Street, San Diego, California.

At the Public Hearing, the Board will consider the public testimony on the proposed changes noticed below to occupational safety and health regulations in Title 8 of the California Code of Regulations.

BUSINESS MEETING: On **May 16, 2002** following the Public Hearing in the Auditorium of the California State Building, 1350 Front Street, San Diego, California.

At the Business Meeting, the Board will conduct its monthly business.

The meeting facilities and restrooms are accessible to the physically disabled. Requests for accommodations for the disabled (assistive listening device, sign language interpreters, etc.) should be made to the Board office no later than 10 working days prior to the day of the meeting. If Paratransit services are needed, please contact the Paratransit office nearest you.

Notice is hereby given pursuant to Government Code Section 11346.4 and Labor Code Sections 142.1, 142.4 and 144.5, that the Occupational Safety and Health Standards Board pursuant to the authority granted by Labor Code Section 142.3, and to implement Labor Code Section 142.3, will consider the following proposed revisions to Title 8, High-Voltage Electrical Safety Orders and General Industry Safety Orders of the California Code of Regulations, as indicated below, at its Public Hearing on May 16, 2002.

1. TITLE 8: HIGH-VOLTAGE ELECTRICAL SAFETY ORDERS
Chapter 4, Subchapter 5
Group 2, Article 40 (New Article)
Sections 2980–2983
Electronic News Gathering (ENG)
2. TITLE 8: GENERAL INDUSTRY SAFETY ORDERS
Chapter 4, Subchapter 7
Article 81, Section 4799
Oxygen or Fuel-Gas Operator Training Instructions

A description of the proposed changes are as follows:

1. TITLE 8: HIGH-VOLTAGE ELECTRICAL SAFETY ORDERS
Chapter 4, Subchapter 5
Group 2, Article 40 (New Article)
Sections 2980–2983
Electronic News Gathering (ENG)

INFORMATIVE DIGEST OF PROPOSED ACTION/POLICY STATEMENT OVERVIEW

Existing Title 8, Electrical Safety Orders do not specifically address the hazards associated with the operation of electronic news gathering vehicles equipped with elevating masts and/or antennas capable of being extended into or near high-voltage power lines. Such vehicles are increasingly being used for television and radio live, on-location news, as well as for taping and relaying news, sporting, and other live events on location for broadcast or closed-circuit use and for electronic field production. Some public safety organizations also utilize microwave mast equipped vehicles.

This rulemaking is the direct result of a petition to the Board from five southern California labor union locals, representing over 40,000 workers in the radio and television industry. The petition (OSHSB File No. 422) was initiated as a result of a microwave mast accident that occurred on May 22, 2000, in Hollywood, wherein the microwave mast of an ENG vehicle was inadvertently extended into overhead power lines energized at 34,500 volts phase-to-phase (19,980 volts

phase-to-ground). The reporter assigned to the vehicle received third-degree burns when she exited the vehicle while it was in contact with the high-voltage lines. She subsequently lost her right foot and left hand, as well as toes on her left foot and some fingers on her right hand as a result of the burns.

In the same month that this accident occurred, three members of an ENG crew in Alexandria, VA were injured when the mast of their vehicle made contact with high-voltage electric power lines. Another ENG photographer in Cedar Rapids, IA was also reportedly critically injured when the mast of his microwave news van came into contact with an overhead high-voltage power line. Other accidents of a similar nature have occurred over the years as evidenced by OSHA accident inspection reports. Such accidents usually result in severe burns, dismemberment, or death to the ENG vehicle crew, and can present a danger to pedestrians near the vehicle through a phenomenon known as step-potential wherein the earth in the vicinity of the vehicle in contact with high-voltage power lines becomes energized as the current flows to ground.

The petition proposed a safety standard for ENG consisting of nine elements. On January 18, 2001, the Standards Board granted the petition to the extent that it directed Staff to convene an advisory committee to consider seven of the proposed elements. In addition, the Board recommended that the advisory committee should evaluate clarifying the application of the Telecommunication Safety Orders (TCSO), Section 8600, with regard to ENG operations.

The regulations being proposed were developed in conjunction with an ENG Advisory Committee that was held on June 12–13, 2001, and a Subcommittee on training that met on July 18, 2001. The ENG Advisory Committee consisted of a broad spectrum of participants from broadcast news organizations, labor, ENG vehicle manufacturers, electric utilities, and interested government agencies.

The Advisory Committee determined that the inclusion of the ENG regulations in the TCSO would be inappropriate because TCSO Section 8600(d) requires that all work performed under the provisions of the TCSO be performed under the direction of Qualified Telecommunications Workers or Qualified Electrical Workers trained in the operations involved. This is inconsistent with common practice in the ENG industry; furthermore, ENG crews do not normally work in close proximity to high-voltage power lines as telecommunications workers do.

Many of the proposed requirements for ENG vehicles are already being voluntarily provided in vehicles currently being manufactured. A period of one year from the effective date of this regulation is permitted for vehicle manufacturers to implement any

changes in production practices that may be necessary to make newly manufactured vehicles fully compliant. A period of two years from the effective date of the regulations will be permitted for existing, non-compliant vehicles to be retrofitted. The cost of compliance for new vehicles, estimated at \$1500, is minor compared to the suffering caused by electrical accidents and the loss of work time and medical expenses. Costs of retrofitting existing vehicles can vary widely depending on the age and manufacture of the vehicle; however, assuming a worst case that the existing vehicle has none of the required equipment, the cost of retrofit is not anticipated to exceed \$3000 including parts and labor.

Not only will the proposed regulations improve the safety of working conditions for the ENG crew, but they will also provide an improved level of safety for public safety workers and members of the public in the vicinity of ENG vehicles by greatly reducing the hazard of accidental contact with high-voltage power lines.

Article 40. Electronic News Gathering is an entirely new Article in the High-Voltage Electrical Safety Orders. It consists of the following requirements:

Section 2980. Definitions.

This section includes definitions for “Electronic News Gathering (ENG)” and “ENG Vehicle.” The effect will be to define the scope of the regulations for proper application.

Section 2981. Provisions for Preventing Accidents Due to Operation of Electronic News Gathering Vehicles in Proximity of Overhead Power Lines.

This section contains requirements for ENG vehicle safety devices, a vehicle safety manual, and prescribes effective dates for application of the regulation. Specific provisions of Section 2981 are as follows:

Subsection (a) Constant pressure mast switches:

This subsection requires means to prevent raising or rotating the elevating antenna or dish unattended. ENG vehicles already have a switch for elevating antenna; however, the effect of this regulation will be to require a switch that will require constant attendance to operate and to be so located to enable continuous, responsible observation of the overhead environment by the operator when elevating the antenna.

Subsection (b) Level indication devices:

This subsection requires means to indicate whether the vehicle is on level or sloping ground. Microwave masts often are 55 feet high, with some up to 70 feet high, and the offset of the mast of a vehicle parked on a slight slope can be greatly magnified. The effect of this requirement will be to require provision of level indication devices on vehicles not already so equipped to assist the crew in assessing the risk of elevating the

vehicle mast into overhead obstructions such as power lines which may be near, but not directly overhead when the vehicle is not on level terrain.

Subsection (c) Illumination:

ENG vehicles are called upon to set-up in all kinds of locations, at all times of day and night, and locating overhead power lines during periods of darkness or reduced illumination can be difficult without adequate lighting. This subsection requires illumination adequate to assist operating personnel in locating overhead hazards such as power lines within the proximity of the elevating device during periods of darkness or reduced available light. The effect of this subsection will be to require ENG vehicles to be equipped with spotlights or similar devices that can be aimed upward to illuminate obstructions in the path of the antenna and/or mast.

Subsection (d) Audible and visual warnings:

Movement of an ENG vehicle when the mast and/or antenna is extended can be hazardous because such movement may put the mast or antenna into contact with overhead power lines. The effect of this subsection will be to require provision of visual and audible warning alarms to alert the driver that the mast is elevated. However, the arrangement will not prevent movement of the vehicle if, in the driver's opinion, emergency movement is necessary.

Subsection (e) Warning signs:

The purpose and effect of this subsection will be to require warning signs to be placed in locations where they are readily observable by the mast operator and the vehicle driver. The effect of subsection (e)(1) will be to require a sign at the mast operator's position that will inform of the minimum clearances required from overhead power lines.

The purpose and effect of subsection (e)(2) will be to require signs at the mast operator's and driver's positions to inform them of the vehicle height when the mast or antenna is raised and when it is stowed. These warning signs will assist the crew in avoiding contact with overhead power lines and also in preventing collision of the vehicle with fixed overhead obstructions such as over-crossings and low clearance parking garages.

Subsection (f) Vehicle safety manual:

The effect of this subsection will be to require each ENG vehicle to be furnished with a single safety manual containing all the essential vehicle and equipment operating information specific for the vehicle in which it is placed in order to provide the crew with a ready reference of specific vehicle information.

Subsection (g) Requirement for work to be performed in accordance with Article 37 of the High-Voltage Electrical Safety Orders (HVESO):

The effect of this subsection will be to clarify that other provisions of the HVESO are applicable to ENG. This is not a new requirement, but only a clarification of existing requirements.

Subsection (h) Effective dates:

This subsection establishes compliance dates for newly manufactured ENG vehicles and for those vehicles already in service. The effect will be to provide time for manufacturers of new vehicles to adjust their manufacturing procedures once the requirements are codified. Furthermore, additional time will be allowed for existing vehicles so that vehicle owners can manage cash flow and retrofit their fleet in an orderly manner without having to take a substantial portion of their fleet "off the street" at one time.

Section 2982. Employee Training:

Subsection (a) Scope and application:

Subsection (a)(1) specifies that ENG training requirements are in addition to those of the Injury and Illness Prevention Program (GISO 3203(a)(7)). The effect of this is to address hazards that are unique to ENG and to clarify that specific ENG training is an "add-on module" to Section 3203.

It is necessary to maintain a high employee awareness of the hazards of electrical energy and to keep employees current on new hazards presented by rapidly changing technology. Therefore, subsection (a)(2) specifies that safety training shall be conducted not less than annually for all personnel employed in ENG. The effect of this regulation will be to impose annual training requirements on employers in addition to the initial training currently required by GISO Section 3203.

Subsection (a)(3) defines the personnel to be included within the scope of the training requirements. In addition to "field personnel" (employees actually working the ENG vehicles), supervisory personnel who assign or have immediate and direct control over field personnel are also required to receive the training. Since ENG is unique from other industries in that the supervisor normally cannot "walk by" and observe the work conditions of his/her subordinates, the effect of this regulation will be to require persons having immediate and direct control over field personnel to receive the same training as those they supervise so they will be aware of the hazards associated with ENG so that they do not order field crews into unnecessarily hazardous assignments.

Subsection (a)(4) requires the employer to implement measures to ensure that personnel are trained as required by Section 2982(b) prior to their operating or working in proximity of ENG vehicles under field

conditions. The effect of this regulation will be to prevent the assignment of personnel to ENG vehicles before they have received the requisite training.

Subsection (a)(5) requires personnel who assign or supervise field personnel, to have successfully completed training required by Section 2982(b) prior to assigning or supervising field personnel. The effect of this regulation will be to prevent personnel from assigning or directing ENG crews in the field until they (the supervisory personnel) have received the requisite training. An exception suspends this requirement during major natural disasters or civil emergencies so as not to interfere with the special access privileges afforded news gathering organizations by Penal Code Section 409.

Subsection (b) Training:

Subsection (b)(1) contains a general statement of the goal of ENG training; to instill an understanding of the specific hazards associated with electrical energy and to teach safety-related work practices and procedural requirements as necessary to provide protection from electrical hazards. The effect of this requirement is to specify the breadth of the required safety training.

Subsection (b)(2) requires the employer to establish, implement, and maintain a written Code of Safe Practices for ENG. The effect of this requirement will be to require ENG vehicle operators to develop and implement a written training program for their employees, which will consist of subjects that have been determined to be minimum training requirements for the safe operation of ENG vehicles.

Subsection (b)(3) requires training and evaluation to be conducted by qualified individuals. The effect of this regulation will be to insure that adequate standards are maintained.

Subsection (c) Documentation:

The effect of this subsection is to require the documentation of employee training, consistent with the requirements of the GISO Injury & Illness Prevention Program, which are applicable for all industries.

Section 2983. Safety Inspections:

The effect of this subsection will be to require quarterly safety inspections. Safety inspections on a quarterly basis were determined to be necessary due to the normal lack of direct supervisory oversight of field crews, rapidly changing technology, intense time pressures upon the field crew to get the news story, and continuously changing work conditions. Quarterly in-the-field safety inspections will also facilitate the maintenance of safe work practices between annual training, which is required by Section 2982(a)(2).

Authority for this rulemaking is found in Labor Code, Section 142.3.

COST ESTIMATES OF PROPOSED ACTION

Costs or Savings to State Agencies

Costs or savings to state agencies may result as a consequence of the proposed action. The proposed regulations do not impose unique requirements on State agencies. Only agencies with vehicles within the scope of this regulation will be affected, and their costs and/or savings will be the same as for businesses having the same kind of vehicles. Only two State Agencies (the Office of Emergency Services and the Department of Forestry) are known to have vehicles that will be affected by these proposed regulations.

Impact on Housing Costs

The Board has made an initial determination that this proposal will not significantly affect housing costs.

Impact on Businesses

The Board has made an initial determination that this proposal will not result in a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

Added costs associated with equipping new ENG vehicles to comply with the proposed requirements were estimated by the Advisory Committee to be \$1500 on average. The cost of retrofitting existing vehicles will depend on the age and manufacture of the vehicles, but has been estimated not to exceed \$3000 per vehicle. Additionally, costs may be more than offset by increased employee safety, and reduced likelihood of mast and vehicle damage due to the required safety provisions, including a warning system to alert the driver and crew if movement of the vehicle is attempted without the mast being fully retracted and stowed.

Due to economics of size (large vs. small stations), and the wide range in labor and talent costs throughout the State, it is impossible to arrive at meaningful training costs that can be applied statewide. Furthermore, the proposed regulations are performance oriented and do not mandate a specific amount of training time; however, the training subcommittee estimated that initial coverage of the required subjects would take approximately eight hours. Annual refresher courses may require less than eight hours. It should be kept in mind that initial training is already required by General Industry Safety Orders, Section 3203(a)(7) and therefore should not be considered an added cost of this proposed regulation; however, some stations may need to adjust their initial training based on the proposed training regulations.

Cost Impact on Private Persons or Businesses

The Board is not aware of any cost impacts that a representative private person may incur; however, the cost impact that businesses would necessarily incur in reasonable compliance with the proposed action is described in the section above.

Costs or Savings in Federal Funding to the State

The proposal will not result in costs or savings in federal funding to the state.

Costs or Savings to Local Agencies or School Districts Required to be Reimbursed

No costs to local agencies or school districts are required to be reimbursed. See explanation under "Determination of Mandate."

Other Nondiscretionary Costs or Savings Imposed on Local Agencies

This proposal imposes nondiscretionary costs on local agencies; however, only agencies with vehicles within the scope of the proposed regulations will be affected. Costs and/or savings to agencies affected will be the same as for businesses discussed previously. Due to the specialized nature and high cost of the regulated vehicles, most local agencies will not have such vehicles and will therefore not be affected. Those agencies having vehicles subject to the proposed regulations are likely to have no more than a few.

DETERMINATION OF MANDATE

The Occupational Safety and Health Standards Board has determined that the proposed regulations do not impose a local mandate. Therefore, reimbursement by the state is not required pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code because the proposed amendments will not require local agencies or school districts to incur additional costs in complying with the proposal beyond those applicable to any other entity that operates ENG vehicles. Furthermore, these regulations do not constitute a "new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution."

The California Supreme Court has established that a "program" within the meaning of Section 6 of Article XIII B of the California Constitution is one which carries out the governmental function of providing services to the public, or which, to implement a state policy, imposes unique requirements on local governments and does not apply generally to all residents and entities in the state. (*County of Los Angeles v. State of California* (1987) 43 Cal.3d 46.)

These proposed regulations do not require local agencies to carry out the governmental function of providing services to the public. Rather, the regula-

tions require local agencies to take certain steps to ensure the safety and health of their own employees only. Moreover, these proposed regulations do not in any way require local agencies to administer the California Occupational Safety and Health program. (See *City of Anaheim v. State of California* (1987) 189 Cal.App.3d 1478.)

These proposed regulations do not impose unique requirements on local governments. All employers—state, local and private—will be required to comply with the prescribed standards.

EFFECT ON SMALL BUSINESSES

The Board has determined that the proposed amendments will not affect small businesses as defined in Government Code Section 11342.610.

ASSESSMENT

The adoption of the proposed amendments to these regulations will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

REASONABLE ALTERNATIVES CONSIDERED

Our Board must determine that no reasonable alternative considered by the Board or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

2. TITLE 8: GENERAL INDUSTRY SAFETY ORDERS

Chapter 4, Subchapter 7
Article 81, Section 4799

**Oxygen or Fuel-Gas Operator
Training Instructions**

**INFORMATIVE DIGEST OF PROPOSED
ACTION/POLICY STATEMENT OVERVIEW**

This rulemaking action is based upon the findings of Board staff and the Division of Occupational Safety and Health (Division) resulting from the evaluation of Petition File No. 392, submitted by Mr. Steve Ababan, General Manager of Torchmaster. The petition requested that Sections 4799 and 4848 of the General Industry Safety Orders (GISO) be amended to provide more specific training requirements for employees in charge of oxygen or fuel-gas supply or distribution equipment for welding and cutting operations. Evaluation of the petition by Board and Division staff concluded that existing Section 4799, Section 4848, and Section 3203 Injury and Illness Prevention Program adequately addressed this training issue. Consequently, the Board denied the Petitioner's proposed amendments to Sections 4799 and 4848.

However, in evaluating the merits of Petition No. 392, the Board concurred with Board and Division staff that Section 4848(a) be revised to reference the 1994 edition of American National Standards Institute (ANSI) Z49.1, Safety In Welding, Cutting and Allied Processes. Board staff has, through a separate rule-making action in progress, proposed amendments to Section 4848 to replace the outdated ANSI reference with the 1994 edition of the ANSI standard. Chapter 10 of this standard contains specific safety procedures to be followed that are applicable to employees who operate oxygen or fuel-gas welding and cutting equipment.

Board staff proposes to amend Section 4799 in this rulemaking action to include a reference to the Injury and Illness Prevention Program requirements in Section 3203 in order to make it clear as to when employers are to train employees in charge of oxygen or fuel-gas equipment, and how such training is to be documented. Subsections (a)(7)(A) through (F) of Section 3203 establish requirements for employee training, and subsection (b) addresses written documentation of such training. As stated in the Board's Decision of OSHSB Petition File No. 392, the Division and Board staff concluded that the training requirements in Section 3203 apply to oxygen or fuel-gas operations and, in conjunction with the training requirements in Section 4799, adequately address the training needs of employees and supervisors involved in these hazardous operations.

Section 4799. Training of Operators and Instructors.

The first sentence in existing Section 4799 requires employers to instruct (train) employees who are in charge of oxygen or fuel-gas supply equipment, including generators and oxygen or fuel-gas distribution piping systems, before being left in charge. A revision is proposed to reword this sentence to read, "Employees in charge of the oxygen or fuel-gas supply equipment including generators, and oxygen or fuel-gas distribution piping systems shall be instructed for this work in accordance with the requirements of Section 3203 of the General Industry Safety Orders before being left in charge." The proposed revision will clarify to the employer that all employees left in charge of oxygen or fuel-gas supply equipment must receive training and instruction in accordance with the employer's Injury and Illness Prevention Program as outlined in Section 3203 of the General Industry Safety Orders. Section 3203 addresses, in part, requirements for initial and periodic training, supervisor training, and documentation of training.

COST ESTIMATES OF PROPOSED ACTION

Costs or Savings to State Agencies

No costs or savings to state agencies will result as a consequence of the proposed action.

Impact on Housing Costs

The Board has made an initial determination that this proposal will not significantly affect housing costs.

Impact on Businesses

The Board has made an initial determination that this proposal will not result in a significant, adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

Cost Impact on Private Persons or Businesses

The Board is not aware of any cost impact that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Costs or Savings in Federal Funding to the State

The proposal will not result in costs or savings in federal funding to the state.

Costs or Savings to Local Agencies or School Districts Required to be Reimbursed

No costs to local agencies or school districts are required to be reimbursed. See explanation under "Determination of Mandate."

Other Nondiscretionary Costs or Savings Imposed on Local Agencies

This proposal does not impose nondiscretionary costs or savings on local agencies.

DETERMINATION OF MANDATE

The Occupational Safety and Health Standards Board has determined that the proposed regulations do not impose a local mandate. Therefore, reimbursement by the state is not required pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code because the proposed amendment will not require local agencies or school districts to incur additional costs in complying with the proposal. Furthermore, this regulation does not constitute a "new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution."

The California Supreme Court has established that a "program" within the meaning of Section 6 of Article XIII B of the California Constitution is one which carries out the governmental function of providing services to the public, or which, to implement a state

policy, imposes unique requirements on local governments and does not apply generally to all residents and entities in the state. (*County of Los Angeles v. State of California* (1987) 43 Cal.3d 46.)

The proposed regulations do not require local agencies to carry out the governmental function of providing services to the public. Rather, the regulations require local agencies to take certain steps to ensure the safety and health of their own employees only. Moreover, the proposed regulations do not in any way require local agencies to administer the California Occupational Safety and Health program. (See *City of Anaheim v. State of California* (1987) 189 Cal.App.3d 1478.)

The proposed regulations do not impose unique requirements on local governments. All employers—state, local and private—will be required to comply with the prescribed standards.

EFFECT ON SMALL BUSINESSES

The Board has determined that the proposed amendments may affect small businesses.

ASSESSMENT

The adoption of the proposed amendments to these regulations will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

REASONABLE ALTERNATIVES CONSIDERED

Our Board must determine that no reasonable alternative considered by the Board or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The above proposals do not contain building standards as defined by Health and Safety Code Section 18909.

A copy of the proposed changes in STRIKEOUT/ UNDERLINE format is available upon request made to the Occupational Safety and Health Standard Board's Office, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833, (916) 274-5721. Copies will also be available at the Public Hearing.

An INITIAL STATEMENT OF REASONS containing a statement of the purpose and factual basis for the proposed actions, identification of the technical documents relied upon, and a description of any identified alternatives has been prepared and is available upon request from the Standards Board's Office.

Notice is also given that any interested person may present statements or arguments orally or in writing at the hearing on the proposed changes under consider-

ation. It is requested, but not required, that written comments be submitted so that they are received no later than May 10, 2002. The official record of the rulemaking proceedings will be closed at the conclusion of the public hearing and written comments received after 5:00 p.m. on May 16, 2002 will not be considered by the Board unless the Board announces an extension of time in which to submit written comments. Written comments should be mailed to the address provided below or submitted by fax at (916) 274-5743 or e-mailed at oshsb@hq.dir.ca.gov. The Occupational Safety and Health Standards Board may thereafter adopt the above proposal substantially as set forth without further notice.

The Occupational Safety and Health Standards Board's rulemaking file on the proposed actions including all the information upon which the proposals are based are open to public inspection Monday through Friday, from 8:30 a.m. to 4:30 p.m. at the Standards Board's Office, 2520 Venture Oaks Way, Suite 350, Sacramento, California 95833.

The full text of proposed changes, including any changes or modifications that may be made as a result of the public hearing, shall be available from the Executive Officer 15 days prior to the date on which the Standards Board adopts the proposed changes.

Inquiries concerning either the proposed administrative action or the substance of the proposed changes may be directed to John D. MacLeod, Executive Officer, or Michael Manieri, Principal Safety Engineer, at (916) 274-5721.

You can access the Board's notice and other materials associated with this proposal on the Standards Board's homepage/website address which is <http://www.dir.ca.gov/oshsb>. Once the Final Statement of Reasons is prepared, it may be obtained by accessing the Board's website or by calling the telephone number listed above.

TITLE 8. DIVISION OF OCCUPATIONAL SAFETY AND HEALTH

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the Division of Labor Statistics and Research is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held beginning at 10 a.m. in Hearing Room 9 at the Hiram Johnson State Building at 455 Golden Gate Avenue, San Francisco, California on Monday, May 13, 2002. These facilities are accessible to persons with mobility impairments.

Written comments must be received by mail, by fax or by email no later than 5:00 p.m. on Monday, May 13, 2002, or must be received at the hearing. Comments must be addressed to either of the following:

Robert Nakamura, Senior Industrial Hygienist
Department of Industrial Relations
Division of Occupational Safety and Health
455 Golden Gate Avenue, 10th Floor
San Francisco, CA 94102
Fax: (415) 703-5114
email: DOSHInfo@dir.ca.gov

Ramon Cruz, Research Manager
Department of Industrial Relations
Division of Labor Statistics and Research
455 Golden Gate Avenue, 8th Floor
San Francisco, CA 94102
Fax: (415) 703-3029
email: DOSHInfo@dir.ca.gov

The official record of the rulemaking proceeding will be closed at 5:00 p.m. on May 13, 2002. The Division of Labor Statistics and Research shall not consider written comments received after that date and time unless an extension of time in which to receive specific written comments is announced at the public hearing.

The Division of Labor Statistics and Research may thereafter adopt the proposed regulations substantially as described below, or may modify it if such modification is sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

AUTHORITY AND REFERENCE

Authority cited: Labor Code Sections 50.7 and 6410.

Reference: Labor Code Section 6410.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Pursuant to Labor Code Section 6410, DLSR, a division within the Department of Industrial Relations, is charged with prescribing and providing the forms necessary for maintenance of records of occupational injuries and illnesses required by the United States Department of Labor under the Federal Occupational Safety and Health Act of 1970 (P.L. 91-596). Requirements for fulfilling this mandate are currently found in Article 2 of Subchapter 1, Chapter 7, Division 1 of Title 8 in the California Code of Regulations ("Article 2").

On January 19, 2001, the U.S. Department of Labor, Occupational Safety and Health Administration (OSHA) promulgated revisions to regulations at 29 CFR 1904 addressing Occupational Injury and Illness Recording and Reporting. See Federal Register Volume 66, No. 13, pages 5916-6135. The State of California, through DLSR, was required by the provisions of 29 CFR 1902.3(k), 29 CFR 1952.4, and 29 CFR 1956.10(i), to adopt regulations for recording of occupational injuries and illnesses that are substantially identical to the requirements of revised 29 CFR 1904. As a result, the revised provisions of Article 2, Sections 14300 through 14300.47 took effect on January 1, 2002.

DLSR now proposes to revise Sections 14004 and 14005 by modifying the Employer's Report, the Form 5020, or an equivalent approved by DLSR, to include the additional instructions that are required by Section 14300.29 and Appendix F to protect the confidentiality of the employee, and to include two questions that are now required by Appendix F. The revised form would fulfill the requirements for a form equivalent to the Cal/OSHA Form 301, Appendix C, as specified by Section 14300.29(b)(4).

To implement the new provisions, DLSR proposes to repeal Form 5020 Revision 6 in Section 14004, and replace it with Form 5020 Revision 7. Revision 7 retains the content of Revision 6, but adds the instruction to the custodian of these forms to protect the confidentiality of the employees whose personal information has been recorded on the forms. DLSR also proposes to specify in Section 14005 that this instruction must appear in the form 5020 that is reproduced and adopted by insurers and self-insured employers. The instruction is as follows:

ATTENTION: This form contains information relating to employee health and must be used in a manner that protects the confidentiality of employees to the extent possible while the information is being used for occupational safety and health purposes. Reference: Section 14300.29 (b)(6)-(10).

Shaded boxes indicate confidential employee information as listed in CCR Title 8 14300.35(b)(2)(E)2. Confidential information may be disclosed to the employee, former employee, or their personal representative (8 CCR 14300.35), to others for the purpose of processing a workers' compensation or other insurance claim; and under certain circumstances to a public health or law enforcement agency or to a consultant hired by the employer (8 CCR 14300.30). 8 CCR 14300.40 requires provision upon request to certain state and federal workplace safety agencies.

Revision 7 also contains two questions that are not in Revision 6. These are:

- 1) Was the employee treated in an emergency room? (Yes or No)
- 2) Was the employee hospitalized overnight as an in-patient? (Yes or No)

Revision 7 also has reformatted information that facilitates the process of protecting an employee's confidentiality.

The proposed revisions to Sections 14004 and 14005 will enable employers and insurers to utilize a form that functions as a reporting form for the workers' compensation process, and as the Cal/OSHA Injury and Illness Incident Report Form 301. This will reduce the paperwork burden of the regulated public.

MORE INFORMATION

The full text of the proposed regulations, and all information upon which the proposed regulations are based, including an initial statement of the reasons for the proposed regulations, are available upon request. Inquiries concerning the proposed regulations, including questions regarding the substance of the proposed regulations, may be directed to:

Robert Nakamura, Senior Industrial Hygienist
 Department of Industrial Relations
 Division of Occupational Safety and Health
 455 Golden Gate Avenue, 10th Floor
 San Francisco, CA 94102
 Phone: (415) 703-5160
 Fax: (415) 703-5114

The designated back-up contact person is:

Ramon Cruz, Research Manager
 Department of Industrial Relations
 Division of Labor Statistics and Research
 455 Golden Gate Avenue, 8th Floor
 San Francisco, CA 94102
 Phone: (415) 703-4757
 Fax: (415) 703-3029

The Division's rulemaking file on the proposed regulations is open for public inspection Monday through Friday, from 8:00 a.m. to 5:00 p.m., at 455 Golden Gate Avenue, 10th Floor, San Francisco, California. Interested parties may obtain copies of the Initial Statement of Reasons, the actual text of the proposed regulations, this notice, and the final statement of reasons, (once it has been prepared pursuant to Government Code Section 11346.9(a)) from the Division representatives named above, or from the Division's website >www.dir.ca.gov/DOSH<. Click on "Proposed Regulations."

COST OR SAVINGS OF THE PROPOSED REGULATIONS

Costs or Savings to State Agencies: No costs or savings to state agencies will result as a consequence of the proposed regulations.

Impact on Housing Costs: The proposed regulations will not significantly affect housing costs.

Impact on Businesses: The Division has made an initial determination that the proposed regulations will not result in a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

Cost Impacts on Representative Private Persons or Businesses: The Division is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed regulations.

Costs or Savings in Federal Funding to the State: The proposed regulations will not result in costs or savings in federal funding to the State.

Costs or Savings to Local Agencies or School Districts: No costs to local agencies or school districts are required to be reimbursed. See explanation under "Determination of Mandate".

Other Nondiscretionary Costs or Savings Imposed on Local Agencies: The proposed regulations do not impose nondiscretionary costs or savings on local agencies.

DETERMINATION OF MANDATE

The proposed regulations do not impose a mandate on local agencies or school districts. The Division has determined that the proposed regulations do not impose a mandate requiring reimbursement by the State pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code because the proposed regulations do not constitute a "new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution."

The California Supreme Court has established that a "program" within the meaning of Section 6 of Article XIII of the California Constitution is one which carries out the governmental function of providing services to the public, or which, to implement a state policy, imposes unique requirements on local governments and does not apply generally to all residents and entities in the state. (*County of Los Angeles v. State of California* (1987) 43 Cal.3d 46.).

The proposed regulations do not require any local agency to carry out the governmental function of providing services to the public.

EFFECT ON SMALL BUSINESSES

It has been determined that the proposed regulations may affect small businesses.

ASSESSMENT

The adoption of the proposed regulations will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

CONSIDERATION OF ALTERNATIVES

The Division must determine that no reasonable alternative considered by the Division, or that has been identified and brought to the attention of the Division, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

**TITLE 10. DEPARTMENT
OF CORPORATIONS**

NOTICE IS HEREBY GIVEN

The California Corporations Commissioner ("Commissioner") proposes to amend existing Rule 1741.5 and adopt Rule 1729 and Rule 1741.5 (operative March 31, 2002) under the Escrow Law (Title 10, Chapter 3, Sections 1729 and 1741.5 of the California Code of Regulations) and adopt Rule 1950.302 under the California Residential Mortgage Lending Act (Title 10, Chapter 3, Section 1950.302 of the California Code of Regulations) relating to the frequency of the routine regulatory examinations of escrow agent licensees and additional information to be included in the Independent Annual Audit Report each escrow agent licensee is required to submit to the Department of Corporations and to the frequency of the routine regulatory examinations of licensees under the California Residential Mortgage Lending Act.

PUBLIC COMMENTS

No public hearing is scheduled. Any interested person or his or her duly authorized representative may request, in writing, a public hearing pursuant to Section 11346.8(a) of the Government Code. The request for hearing must be received by the Department of Corporations' ("Department") contact person designated below no later than 15 days prior to the close of the written comment period.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Department, addressed to Kathy Womack, Office of Law and Legislation, Department of Corporations,

1515 K Street, Suite 200, Sacramento, CA 95814-4052, no later than 5:00 p.m., May 13, 2002. Written comments may also be sent to Kathy Womack (1) via electronic mail at regulations@corp.ca.gov or (2) via fax at (916) 322-5875. If this day is a Saturday, Sunday or state holiday, the comment period will close at 5 p.m. on the next business day.

**INFORMATIVE DIGEST/POLICY
STATEMENT OVERVIEW**

I. Escrow Law

The Department, California's Investment and Financing Authority, licenses and regulates independent escrow agents under the Escrow Law (Financial Code Sections 17000 to 17702). Up until December 31, 2001, the Escrow Law, under Financial Code Section 17405, required the Commissioner to conduct a routine regulatory examination of every escrow agent licensee at least once every other calendar year, starting from the first day of the previous examination.

A legislative bill enacted last year and which became effective on January 1, 2002, i.e., Assembly Bill 459 (Chapter 499, Statutes of 2001) ("AB 459"), amended the Escrow Law to, among other things, amend Financial Code Section 17405 to change the frequency of the routine regulatory examination of every licensed escrow agent conducted by the Commissioner to as often as the Commissioner deems necessary and appropriate, but not less than once every 48 months. In determining how often a licensee shall be examined, AB 459 specifies that the Commissioner may consider each escrow agent licensee's compliance with the Escrow Law and other factors the Commissioner may by rule or order designate. Although AB 459 became effective on January 1, 2002, the bill, however, provides that the change in the frequency of the routine regulatory examination (from every other year to at least once every 4 years) does not apply or become operative until the Commissioner establishes, by rule or order, the factors that may be considered in determining how often an escrow agent licensee will be examined.

In order to implement AB 459, the Commissioner proposes to adopt Rule 1729 to set forth the factors the Commissioner may consider in determining how often a routine regulatory examination of an escrow agent licensee will be conducted. These factors are (1) past and current violations of the Escrow Law and the regulations promulgated thereunder, taking into consideration the nature and severity of the violations and the number of violations and (2) the number of years the escrow agent has been licensed under the Escrow Law.

The Commissioner also proposes to amend Rule 1741.5 that sets forth the instructions for preparing the Independent Annual Audit Report required by Finan-

cial Code Section 17406. Under Financial Code Section 17406 each escrow agent licensee must submit to the Commissioner, at its own expense, an audit report containing audited financial statements for the licensee's established fiscal year. This audit report must include additional relevant information as the Commissioner may require. The audit report is due in the Commissioner's office within 105 days after the escrow agent licensee's fiscal year end. The Commissioner proposes to require additional information to be included in the audit report in order to better assist the Commissioner in determining if an escrow agent licensee is in compliance with the Escrow Law. The Commissioner will use the additional information in the audit reports to determine the frequency of the routine regulatory examinations as this information may reveal violations of the Escrow Law and/or regulations.

AB 459 also requires that the routine regulatory examination shall be conducted for the 12 month period immediately preceding the date the examination is commenced unless the Commissioner finds, based on information uncovered in the examination or in the most recent audit report, that the examination should be extended beyond the 12 month period. The proposed changes to Rule 1741.5 will provide additional information that will assist the Commissioner in making a determination if it is necessary to extend the examination beyond the 12-month period.

However, the Commissioner proposes to not require the additional information in the audit reports until March 31, 2002 in order to allow the escrow agent licensees and their independent accountants sufficient time to be aware of and to begin preparing for the upcoming changes and to implement the changes for those audit reports with fiscal year-ends of March 31, 2002 and thereafter. In order to accomplish this goal of requiring the additional information on audit reports on or after March 31, 2002, the Commissioner proposes to amend existing Rule 1741.5 to add subsection (b) to state that this rule shall remain in effect only until March 31, 2002, and as of that date is repealed, and proposes to adopt a new Rule 1741.5 that specifically states it shall become operative March 31, 2002, and which contains the same language as existing Rule 1741.5 plus incorporates the additional information. In addition, the Commissioner proposes to make technical and conforming changes to existing Rule 1741.5.

The additional information the Commissioner proposes to be included in the audit reports is as follows:

- Require that the audit report include a schedule showing the computation of the licensee's liquidity and tangible net worth for measuring compliance with Financial Code Section 17210 and an itemized

schedule listing each item included in the computation. And require certain information be included that is necessary to include marketable securities and fee receivables as liquid assets.

- Require that the audit report include copies of the trust bank reconciliations for each location as of the balance sheet date, including all interest bearing and dormant accounts and all outstanding checklists. The report shall include an explanation for all adjustments appearing on the reconciliation, including an affirmative statement if any reconciling items were not adjusted as of the date of the balance sheet and whether or not any of the adjustments cause debit balances or shortages. The Department shall be required to maintain the outstanding checklists in the confidential section of the licensee's file.
- Require that the audit report include separate trial balances for transactions covered by Escrow Agents' Fidelity Corporation ("EAFC") and those requiring separate fidelity bonding. The Department shall be required to maintain the trial balances in the confidential section of the licensee's file.
- Require a statement in the audit report whether or not the escrow agent licensee maintains trust bank accounts and escrow trust records for those transactions covered by EAFC separate from the trust bank accounts and escrow trust records for those transactions not covered by EAFC.
- Require a statement in the audit report that the escrow agent licensee is in compliance with the fidelity bonding requirements.
- Require that the audit report include a full explanation of the resolution of all debit balances or a statement that the debit balances have not been resolved as of the auditor's report date.
- Require that the auditor perform procedures to determine the disposition of old dormant trust funds and old outstanding checks and include the results of the procedures in the audit report.

II. California Residential Mortgage Lending Act

The Department licenses and regulates residential mortgage lenders and mortgage servicers under the California Residential Mortgage Lending Act ("CRMLA") (Financial Code Sections 50000 to 50707). Pursuant to Assembly Bill 2403 (Chapter 968, Statutes of 2000), Financial Code Section 50302 was changed, effective January 1, 2001, to require the Commissioner to conduct a routine regulatory examination of every CRMLA licensee as often as the Commissioner deems necessary and appropriate, but

at least once every 48 months. Prior to the change, the law required a routine regulatory examination at least once every 24 months.

The Commissioner proposes to adopt Rule 1950.302 to set forth the factors the Commissioner may consider in determining how often a routine regulatory examination of a CRMLA licensee will be conducted. These factors are (1) past and current violations of the CRMLA and the regulations promulgated thereunder, taking into consideration the nature and severity of the violations and the number of violations and (2) the number of years the licensee has been licensed under the CRMLA.

AUTHORITY

Sections 17400 and 50304, Financial Code.

REFERENCE

Sections 17405, 17406 and 50302, Financial Code.

AVAILABILITY OF MODIFIED TEXT

The text of any modified regulation, unless the modification is only non-substantial or solely grammatical in nature, will be made available to the public at least 15 days prior to the date the Department adopts the regulation. A request for a copy of any modified regulation should be addressed to the contact person designated below. The Commissioner will accept written comments on the modified regulation(s) for 15 days after the date on which they are made available. The Commissioner may thereafter adopt, amend or repeal the foregoing proposal substantially as set forth above without further notice.

AVAILABILITY OF INITIAL STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS/INTERNET ACCESS

The express terms of the proposed action may be obtained upon request from any office of the Department. Request Document PRO 12/01-B. An initial statement of reasons for the proposed action containing all the information upon which the proposal is based is available from the contact person designated below. Request Document PRO 12/01-C. These documents are also available at the Department's website www.corp.ca.gov. As required by the Administrative Procedure Act, the Office of Law and Legislation maintains the rulemaking file. The rulemaking file is available for public inspection at the Department of Corporations, Office of Law and Legislation, 1515 K Street, Suite 200, Sacramento, California 95814-4052.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, the Final Statement of Reasons will be available and copies may be requested from the contact person named in this notice or may be accessed on the website listed above.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5, subdivision (a)(13), the Department must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

FISCAL IMPACT

- Cost or Savings to any State Agency: None.
- Cost or Savings to Local Agency or School District, or a Mandate Which Requires Reimbursement Pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code: None.
- Direct or Indirect Costs or Savings in Federal Funding to the State: None.
- Other nondiscretionary costs/savings imposed on local agencies: None.

DETERMINATIONS

The Commissioner has made an initial determination that the proposed regulatory action:

- Does not impose a mandate on local agencies or school districts, or a mandate which requires reimbursement pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code.
- Does not have an effect on housing costs.
- Does not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.
- Does not significantly affect (1) the creation or elimination of jobs within the State of California; (2) the creation of new businesses or the elimination of existing businesses within the State of California; and (3) the expansion of businesses currently doing business within the State of California.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESS

The cost impact of this proposed regulatory action is primarily on escrow agent licensees of the Department in complying with that part of the proposed action which requires additional reporting requirements in the annual audit reports. The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

EFFECT ON SMALL BUSINESS

It has been determined that the adoption of these regulations may affect small business.

CONTACT PERSON

Nonsubstantive inquiries concerning this action, such as requests for copies of the text of the proposed regulations may be directed to Kathy Womack at (916) 322-3553. The backup contact person is Karen Fong at (916) 322-3553. Inquiries regarding the substance of the proposed regulation may be directed to Timothy L. Le Bas, Assistant Commissioner & General Counsel, Office of Law and Legislation, Department of Corporations, 1515 K Street, Suite 200, Sacramento, California 95814. (916) 322-3553.

**TITLE 10. DEPARTMENT
OF INSURANCE**

**NOTICE OF PROPOSED ACTION AND
NOTICE OF PUBLIC HEARING**

**RH-01013503
March 29, 2002**

SUBJECT OF HEARING

A hearing will be held regarding the adoption of proposed regulations implementing, interpreting, and making specific provisions of Insurance Code Section 758.

AUTHORITY AND REFERENCE

The Insurance Commissioner proposes to adopt specified portions of the subject regulations under the authority of Insurance Code Sections 758, 12921, and 12926. The Commissioner's decision on the adoption of the regulations will implement, interpret and make specific provisions of Insurance Code Section 758.

HEARING DATE AND LOCATION

Notice is hereby given that public hearings will be held to permit all interested persons the opportunity to present statements or arguments, orally or in writing, with respect to these regulations as follows:

**Date and time: May 15, 2002
9:30 am***

**Location: Department of Insurance
Hearing Room
45 Fremont Street, 22nd Floor
San Francisco, CA 94105**

**Date and time: May 17, 2002
9:30 am***

Location:

**Ronald Reagan State
Office Building
300 South Spring Street
Ground Floor Hearing Room
Los Angeles, California 90013**

* These hearings will continue on the dates noted until all testimony has been completed or 4:00 p.m., whichever is earlier.

**PRESENTATION OF WRITTEN AND/OR ORAL
COMMENTS; CONTACT PERSONS**

All persons are invited to present oral and/or written comments at the scheduled public hearings. Written comments not presented at the scheduled public hearings should be addressed to the following contact person:

Teresa R. Campbell, Staff Counsel
California Department of Insurance
45 Fremont Street, 21st Floor
San Francisco, CA 94105
Telephone: (415) 538-4126

Questions regarding the hearing, comments, or the substance of the proposed action should be addressed to the above contact person. If she is unavailable, inquiries may be addressed to the following backup contact person:

Tony Cignera, Division Chief,
Consumer Services Division
California Department of Insurance
300 South Spring Street, 14th floor
Los Angeles, CA 90013
Telephone: (213) 346-6360

DEADLINE FOR WRITTEN COMMENTS

All written materials, unless submitted at the hearings, must be received by the Insurance Commissioner, c/o the contact person at the address listed above, no later than **4:30 p.m. on May 17, 2002**. Any written materials received after that time will not be considered.

**COMMENTS TRANSMITTED BY E-MAIL
OR FACSIMILE**

The Commissioner will accept written comments transmitted by e-mail provided they are sent to the following e-mail address: campbellt@insurance.ca.gov. The Commissioner will also accept written comments transmitted by facsimile provided they are sent to the contact person listed above at the following facsimile number: (415) 904-5490. **Comments sent to other e-mail addresses or other facsimile numbers will not be accepted. Comments sent by e-mail or facsimile are subject to the deadline for written comments set forth above.**

ACCESS TO HEARING ROOMS

The facilities to be used for the public hearing are accessible to persons with mobility impairments. Persons with sight or hearing impairments are requested to notify the contact person (listed below) for these hearings in order to make special arrangements, if necessary.

ADVOCACY OR WITNESS FEES

Persons or groups representing the interests of consumers may be entitled to reasonable advocacy fees, witness fees, and other reasonable expenses, in accordance with the provisions of Subchapter 4.5, Title 10, of the California Code of Regulations, in connection with their participation in this matter. Interested persons should contact the Office of the Public Advisor at the following address, in order to inquire about the appropriate procedures:

California Department of Insurance
Office of the Public Advisor
300 Capitol Mall, 17th Floor
Sacramento, CA 95814
(916) 492-3559

A copy of any written materials submitted to the Public Advisor regarding this rulemaking must also be submitted to the contact person for this hearing, listed above. Please contact the Office of the Public Advisor for further information.

INFORMATIVE DIGEST

Summary of Existing Regulations and Policy Statement Overview

Ins. Code section 758 makes it unlawful for an insurer to require an auto body shop to pay for the cost of an insured's rental vehicle charges or towing charges as a condition of participation in the insurer's direct repair program. However, the statute allows such charges if the insurer and the auto body shop agree in writing to terms that cover the charges when the auto body shop fails to complete the repairs within the agreed upon time. Ins. Code section 758 further provides that an auto body repair shop that is denied participation in an insurer's direct repair program may report that denial to the Department of Insurance, who shall maintain a record of the denials for the purpose of gathering market conduct information. Additionally, if asked by the Department of Insurance, an insurer must disclose that a denial was made.

The same statute requires any insurer that conducts an auto body repair labor rate survey to determine and set a specified prevailing rate in a specific geographic area to report the results of the survey to the Department of Insurance. The Department of Insurance is required to make the information available upon request.

The specific purpose of each adoption, and the rationale for the determination that each adoption is reasonably necessary to carry out the purpose for which it is proposed, together with a description of the public problem, administrative requirement, or other condition or circumstance that each adoption is intended to address, is set forth below.

The Commissioner has determined that the adoption of regulations is necessary in order to effectively administer Insurance Code Section 758. The regulations would do the following:

- 1) Define "Direct Repair Program" and specify where auto body repair shops denied participation in insurers' direct repair programs can report such denials.
- 2) Define "labor rate survey" and "prevailing auto body rate."
- 3) Outline what information must be included in labor rate survey results reported to the Department of Insurance and where those results should be sent.
- 4) Clarify how to request labor rate survey results submitted to the Department of Insurance.

EFFECT OF PROPOSED ACTION

The major effects of the regulations are as follows:

Proposed section 2698.90 (a)

The term "Direct Repair Program" as used in Ins Code section 758 is unclear. Insurers use several names to identify their specific programs. The statute refers to a general category of programs, rather than the name of a specific program. The regulation defines "Direct Repair Program."

Proposed section 2698.90(b)

Ins. Code section 758(b) is unclear as to where an auto body repair facility reporting a denial to participate in an insurer's direct repair program should report that denial. The regulation directs the auto body repair facility to report the denial to the Market Conduct Division/Fair Claims Bureau of the Department of Insurance.

Proposed section 2698.91(a)

The term "labor rate survey" as used in Ins. Code section 758(c) is unclear. The regulation defines "labor rate survey."

Proposed section 2698.91(b)

The term "prevailing auto body rate" as employed in Ins. Code section 758(c) is unclear. The regulation defines "prevailing labor rate."

Proposed section 2698.91(c)

Ins. Code section 758(c) requires an insurer to report the results of any labor rate survey it conducts to the department and provides that the name and

address of the shops surveyed and the total number of shops surveyed must be listed. However, the language of the statute implies that additional information may be reported. The regulation requires the insurer to also provide a description of what geographic areas were surveyed, a description of the methodology used by the insurer to reach the prevailing rate, and the prevailing rate established for each geographic area surveyed. This information provides a context for the information specifically outlined in the statute.

This section also requires that any confidential information not required by the statute or regulation be removed from the labor rate survey before it is submitted to Department of Insurance.

Proposed section 2698.91(d)

It is unclear from § 758(c) specifically where insurers should submit the results of a labor rate survey. The regulation directs the insurer to send the labor rate survey results to the Market Conduct Division of the Department of Insurance.

Proposed section 2698.91(e)

The statute does not state where requests for the labor rate survey results should be directed. The regulation direct all request for labor rate surveys to the Custodian of Record of the Department of Insurance pursuant to he Public Records Act.

**MANDATES ON LOCAL AGENCIES OR
SCHOOL DISTRICTS**

The proposed regulations do not impose any mandate on local agencies or school districts. There are no costs to local agencies or school districts for which Part 7 (commencing with Section 17500) of Division 4 of the Government Code would require reimbursement.

**COST OR SAVINGS TO STATE/LOCAL
AGENCY OR SCHOOL DISTRICT
OR IN FEDERAL FUNDING**

The Commissioner has determined that the proposed regulations will result in no cost or savings to any state agency, no cost to any local agency or school district that is required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of the Government Code, no other nondiscretionary cost or savings imposed on local agencies, and no cost or savings in federal funding to the State.

**ECONOMIC IMPACT ON BUSINESSES AND
THE ABILITY OF CALIFORNIA BUSINESSES
TO COMPETE**

The Commissioner has made an initial determination that the proposed regulations do not have a significant, statewide adverse economic impact directly affecting business or the ability of California businesses to compete with businesses in other states.

**POTENTIAL COST IMPACT ON PRIVATE
PERSONS OR ENTITIES/BUSINESSES**

The Commissioner is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

FINDING OF NECESSITY

The Commissioner finds that it is necessary for the welfare of the people of the state that the regulations apply to businesses.

**EFFECT ON JOBS AND BUSINESSES
IN CALIFORNIA**

The Commissioner is required to assess any impact the regulations may have on the creation or elimination of jobs in the State of California, the creation of new businesses, the elimination of new businesses, and the expansion of businesses currently operating in the state. The Commissioner does not foresee that the proposed regulations will have an impact on any of the above but invites interested parties to comment on this issue.

IMPACT ON HOUSING COSTS

The matters proposed herein will have no significant effect on housing costs.

ALTERNATIVES

The Commissioner must determine that no reasonable alternative considered by the Commissioner or that has otherwise been identified and brought to the attention of the Commissioner would be more effective in carrying out the purposes for which the regulations are imposed or would be as effective and less burdensome to affected private persons than the proposed regulations. The Commissioner invites public comment on alternatives to the regulations.

IMPACT ON SMALL BUSINESS

The Commissioner has determined that the proposed regulations do not significantly affect small businesses in that the regulations pertain primarily to insurers and do not require any significant action on the part of any auto body shop or other small business.

COMPARABLE FEDERAL LAW

There are no existing federal regulations or statutes comparable to the proposed regulations.

**TEXT OF REGULATIONS AND INITIAL
STATEMENT OF REASONS**

The Department has prepared an initial statement of reasons that sets forth the reasons for the proposed adoption of the regulations. Upon request, the initial statement of reasons will be made available for inspection and copying. Written requests for the initial statement of reasons or questions regarding this

proceeding should be directed to the contact person listed above. Upon request, the final statement of reasons will be made available for inspection and copying once it has been prepared. Written requests for the final statement of reasons should be directed to the contact person listed above.

The file for this proceeding, which includes a copy of the proposed regulations, the statement of reasons, the information upon which the proposed action is based, and any supplemental information, including any reports, documentation and other materials related to the proposed action that is contained in the rulemaking file, is available for inspection and copying at 45 Fremont Street, 21st Floor, San Francisco, California 94105, between the hours of 9:00 a.m. and 4:30 p.m., Monday through Friday.

AUTOMATIC MAILING

A copy of this notice, including the informative digest, which contains the general substance of the proposed regulations, will automatically be sent to all persons on the Insurance Commissioner's mailing list.

WEBSITE POSTINGS

Documents concerning this proceeding are available on the Department's website. To access them, go to <http://www.insurance.ca.gov>. Find near the top of the page the major heading 'Protecting Consumers.' In this section, scroll down until you see the subheading 'BE INFORMED.' Click on the nearby 'Search for Proposed Regulations' link. When the search field appears, enter 'RH01013503' (the Department's regulation file number for these regulations). Alternatively, search for the California Insurance Code number of a code section that the regulations implement (for instance, "758"), or search by key word ('direct repair,' for example, or 'labor rate'). Then, click on the "Submit" button to display links to the various filing documents.

To browse, click on the "Browse All Regulations" button near the bottom of the screen. A list of the names of regulations for which documents are posted will appear. Find in the list the "Direct repair Programs and Labor Rate Surveys" link, and click it. Links to the documents associated with these regulations will then be displayed.

MODIFIED LANGUAGE

If the regulations adopted by the Department differ but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Interested persons should request a copy of these regulations prior to adoption from the contact person listed above.

TITLE 13. DEPARTMENT OF MOTOR VEHICLES

NOTICE IS HEREBY GIVEN

The Department of Motor Vehicles (the department) proposes to amend Section 422.01 in Article 6.0, Chapter 1, Division 1, Title 13 of the California Code of Regulations, concerning the administrative fee for returned checks.

PUBLIC HEARING

A public hearing regarding this proposed regulatory action is not scheduled. However, a public hearing will be held if any interested person or his or her duly authorized representative requests a public hearing to be held relevant to the proposed action by submitting a written request to the contact person identified in this notice no later than 5:00 P.M., fifteen (15) days prior to the close of the written comment period.

DEADLINE FOR WRITTEN COMMENTS

Any interested person or his or her duly authorized representative may submit written comments relevant to the proposed regulations to the contact person identified in this notice. All written comments must be received at the department no later than 5:00 P.M. on May 13, 2002, the final day of the written comment period, in order for them to be considered by the department before it adopts the proposed regulations.

AUTHORITY AND REFERENCE

The department proposes to adopt the proposed action under the authority granted by Vehicle Code section 1651, in order to implement, interpret or make specific Vehicle Code Sections 9558 and 34672 and Government Code Section 6157.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Government Code Section 6157 requires a public agency to accept personal checks in payment for any license, permit or fee, or in payment of an obligation owing to the public agency or trust deposit, under specified conditions. Section 6157 provides that if any personal check is returned without payment, a reasonable charge may be imposed to recover the agency's processing and collection costs for the returned check which does not exceed the actual costs incurred by the public agency. The department proposes to amend Section 422.01 in Article 6.0, Chapter 1, Title 13 of the California Code of Regulations, in order to increase the fee for a check

that is returned as dishonored from the financial institution from which the check is drawn, as authorized by Government Code Section 6157.

The increased fee is based on the Dishonored Check Costing dated March 5, 2002, done by the department.

FISCAL IMPACT STATEMENT

- Cost or Savings To Any State Agency: None.
- Other Non-Discretionary Cost or Savings to Local Agencies: None.
- Costs or Savings in Federal Funding to the State: None.
- Cost Impact on Representative Private Persons or Businesses: The department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- Effect on Housing Costs: None.

DETERMINATIONS

The department has made the following initial determinations concerning the proposed regulatory action:

- The proposed regulatory action has no effect which would have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. No studies or data were relied upon in support of this proposal.
- The adoption of this regulation will neither create nor eliminate jobs or businesses in the state of California, will not result in the elimination of existing businesses, and will neither reduce nor expand businesses currently doing business in the state of California.
- The proposed regulatory action will not impose a mandate on local agencies or school districts, or a mandate which requires reimbursement pursuant to part 7 (commencing with Section 17500) of Division 4 of the Government Code.
- The proposed regulatory action will not affect small businesses because the regulations only amend the existing guidelines for the processing of dishonored checks.

ALTERNATIVES CONSIDERED

The department must determine that no reasonable alternative considered by the department or that has otherwise been identified and brought to the attention of the department would be more effective in carrying

out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed action.

CONTACT PERSON

Inquiries relevant to the proposed action and questions on the substance of the proposed regulations should be directed to the department representative, Bonnie DeWatney, Department of Motor Vehicles, P.O. Box 932382, Mail Station E-244, Sacramento, California 94232-3820; telephone number (916) 657-8954, or bdewatney@dmv.ca.gov. In the absence of the department representative, inquiries may be directed to the Regulations Coordinator, Deborah Baity, at (916) 657-5690 or e-mail dbaity@dmv.ca.gov. The fax number for the Regulations Branch is (916) 657-1204.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The department has prepared an initial statement of reasons for the proposed action, and has available all the information upon which the proposal is based. The contact person identified in this notice shall make available to the public upon request the express terms of the proposed action using underline or italics to indicate additions to, and strikeout to indicate deletions from, the California Code of Regulations. The contact person identified in this notice shall also make available to the public upon request the final statement of reasons once it has been prepared and submitted to the Office of Administrative Law, and the location of public records, including reports, documentation and other materials related to the proposed action. In addition, the above-cited materials (Initial Statement of Reasons and Express Terms) may be accessed at www.dmv.ca.gov, Other Services, Legal Affairs Division, Regulatory Notices web page.

AVAILABILITY OF MODIFIED TEXT

Following the written comment period, and the hearing if one is held, the department may adopt the proposed regulations substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the full modified text with changes clearly indicated shall be made available to the public for at least 15 days prior to the date on which the department adopts the resulting regulations. Request for copies of any modified regulations should be addressed to the department contact person identified in this notice. The department will accept written comments on the modified regulations for 15 days after the date on which they are first made available to the public.

TITLE 13. DEPARTMENT OF MOTOR VEHICLES

NOTICE OF WRITTEN COMMENT PERIOD ON PROPOSED ACTION TO MAKE EMERGENCY REGULATIONS PERMANENT

Article 5. Requesting Information from the Public Section 350.44. Cost of Information

The Department of Motor Vehicles (the department) amends, on an emergency basis, regulations in Section 350.44, Article 5, Chapter 1, Division 1, Title 13, of the California Code of Regulations. The amendment increases the per record fee for information requested electronically from the department and clarifies language in an associated subdivision.

Advance notice of the proposed amendment to these regulations has been and/or will be sent to persons affected by the changes. The amendments are summarized in the Informative Digest.

The emergency regulations may be rejected by the Office of Administrative Law before the effective date of regulations, and if not so rejected, will automatically expire 120 days after the effective date if they have not been adopted as permanent regulations in that time.

SUBMISSION OF WRITTEN COMMENTS

The department invites all interested persons or their representatives to submit written comments on the proposal to adopt the above described emergency regulations on a permanent basis. Comments should be addressed or delivered to the contact person identified below.

DEADLINE FOR WRITTEN COMMENTS

Any interested person or his or her duly authorized representative may submit written comments relevant to the proposed regulations to the contact person identified in this notice. All written comments must be received at the department no later than 5:00 P.M. on May 13, 2002, the final day of the written comment period, in order for them to be considered by the department before it adopts the proposed regulation.

PUBLIC HEARING

A public hearing regarding this proposed regulatory action is not scheduled. However, a public hearing will be held if any interested person or his or her duly authorized representative requests a public hearing to be held relevant to the proposed action by submitting a written request to the contact person identified in this notice no later than 5:00 P.M., April 28, 2002, fifteen (15) days prior to the close of the written comment period.

CONTACT PERSON

Inquiries relevant to the proposed action and questions on the substance of the proposed regulations should be directed to the department representative, Bonnie DeWatney, Department of Motor Vehicles, P.O. Box 932382, Mail Station E-244, Sacramento, California 94232-3820; telephone number (916) 657-8954; or bdewatney@dmv.ca.gov. In the absence of the department representative, inquiries may be directed to the Regulations Coordinator, Deborah Baity, (916) 657-5690, or dbaity@dmv.ca.gov. The fax number for the Regulations Branch is (916) 657-1204.

AUTHORITY AND REFERENCE

The department proposes to adopt these regulations under the authority granted by Vehicle Code Sections 1651 and 1810 in order to implement, interpret amend or make specific Vehicle Code Section 1810.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Vehicle Code Section 1810(a) grants the director of the department discretion in setting the fee to be charged for the inspection/sale of records, provided the same is, at minimum, sufficient to cover the actual costs to the department for providing the inspection/sale. Adoption of the amendments to Section 350.44 will satisfy the legislature's requirement of recovering actual and anticipated costs in maintaining electronic access to the department's database as well as clarify existing language.

FISCAL IMPACT STATEMENT

- Cost or Savings to Any State Agency: None.
- Other Non-Discretionary Cost or Savings to Local Agencies: None.
- Costs or Savings in Federal Funding to the State: None.
- Cost Impact on Representative Private Persons or Businesses: The department is not aware of any cost impacts that a representative business would necessarily incur in reasonable compliance with the proposed action, as the increased cost will be borne by the individual client.
- Effect on Housing Costs: None.

DETERMINATIONS

The department has made the following initial determinations concerning the proposed regulatory action:

- The proposed regulatory action would not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in

other states. The regulatory action proposed by the department adopts fees commensurate with the costs associated with its electronic access program.

- The adoption of this regulation is not expected to create or eliminate jobs or businesses in the State of California or reduce or expand businesses currently doing business in the State of California.
- The proposed regulatory action will not impose a mandate on local agencies or school districts, or a mandate which requires reimbursement pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code.
- The proposed regulatory action is not expected to have a significant effect on small businesses as the nominal fee increase can be borne by the individual client and would be viewed as a normal cost of doing business.

ALTERNATIVES CONSIDERED

The department must determine that no reasonable alternative considered by the department or that has otherwise been identified and brought to the attention of the department would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed action.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The department has prepared an initial statement of reasons for the proposed action, and has available all the information upon which the proposal is based. The express terms of the proposed action are written in plain English, and are available from the contact person named in this notice. The contact person identified in this notice shall make available to the public upon request the express terms of the proposed action using underline or italics to indicate additions to, and strikeouts to indicate deletions from, the California Code of Regulations. The contact person identified in this notice shall also make available to the public upon request the final statement of reasons once it has been prepared and submitted to the Office of Administrative Law, and the location of the public records, including reports, documentation and other materials related to the proposed action. In addition, the above-cited materials (Initial Statement of Reasons and Express Terms) may be accessed at www.dmv.ca.gov, Other Services, Legal Affairs Division, Regulatory Notices web page.

AVAILABILITY OF MODIFIED TEXT

Following the written comment period, and the hearing, if one is held, the department may adopt the proposed regulations substantially as described in this

notice. If modifications are made which are sufficiently related to the originally proposed text, the full modified text with changes clearly indicated shall be made available to the public for at least 15 days prior to the date on which the department adopts the resulting regulations. Requests for copies of any modified regulations should be addressed to the department contact person identified in this notice. The department will accept written comments on the modified regulations for 15 days after the date on which they are first made available to the public.

TITLE 13. AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER THE ADOPTION OF THE DIESEL EMISSION CONTROL STRATEGY VERIFICATION PROCEDURE, WARRANTY AND IN-USE COMPLIANCE REQUIREMENTS FOR ON-ROAD, OFF-ROAD, AND STATIONARY DIESEL-FUELED VEHICLES AND EQUIPMENT

The Air Resources Board (the "Board" or "ARB") will conduct a public hearing at the time and place noted below to consider adoption of the Diesel Emission Control Strategy Verification Procedure, Warranty and In-Use Compliance Requirements for on-road, off-road, and stationary diesel-fueled vehicles and equipment.

DATE: May 16, 2002

TIME: 9:00 a.m.

PLACE: California Environmental Protection Agency
Air Resources Board
Central Valley Auditorium
1001 "I" Street
Sacramento, CA 95814

This item will be considered at a two-day meeting of the Board, which will commence at 9:00 a.m., May 16, 2002, and may continue at 8:30 a.m., May 17, 2002. This item may not be considered until May 17, 2002. Please consult the agenda for the meeting, which will be available at least 10 days before May 16, 2002, to determine the day on which this item will be considered.

This facility is accessible to persons with disabilities. If accommodation is needed, please contact the ARB's Clerk by May 2, 2002, at (916) 322-5594 or TDD (916) 324-9531 or (800) 700-8326 for TDD calls from outside the Sacramento area, to ensure accommodation.

INFORMATIVE DIGEST OF PROPOSED ACTION AND POLICY STATEMENT OVERVIEW

Sections Affected: Proposed adoption of new sections 2700-2710, chapter 14, title 13, California Code of Regulations ("CCR") and the procedures

incorporated by reference therein. The following American Society for Testing and Materials methods for measuring fuel properties are incorporated herein by reference: D5453-93, D5186-96, D4629-96, D613-84, D287-82, D445-83, D93-80, and D86-96.

In 1998 the ARB identified diesel particulate matter emissions from diesel-fueled engines as a toxic air contaminant (title 17 CCR Section 93000). The ARB adopted the Diesel Risk Reduction Plan ("DRRP" or "Plan") in 2000 which establishes a goal of reducing emissions in virtually all in-use diesel engines within the State of California by the year 2010. This Plan envisions that particulate emissions from diesel-fueled engines ("diesel particulate matter") should be reduced by 85 percent or to 0.01 grams per brake horsepower-hour. The ARB is reviewing various methods under review for achieving the goals in the Plan including new, more stringent standards for all new diesel-fueled engines and vehicles, the use of diesel emission control strategies, and the use of low sulfur diesel fuel. After the ARB adopted the DRRP, it became apparent that a method of evaluating diesel emission control strategy systems would be needed. Towards this end, staff has developed a verification procedure, warranty and in-use compliance requirements which could be used to verify reductions of diesel particulate matter and/or oxides of nitrogen ("NOx") from in-use diesel engines using a particular emission control strategy, when and if such strategies are required in future regulations. At this time, however, use of the proposed verification procedure, warranty and in-use compliance requirements would be totally voluntary.

At the May 16, 2002 hearing, staff will present the verification procedure, warranty, and in-use compliance requirements. This procedure will specify the information that manufacturers would submit to the ARB to verify their diesel emission control strategies. The verification procedure for in-use strategies to control emissions from diesel engines is designed to ensure that emission reductions derived from the use of these strategies are both real and durable. To verify a diesel emission control strategy, the applicant would perform emission reduction testing, conduct a durability demonstration, conduct a field demonstration, and submit the results along with other information in an application to ARB following a prescribed format. Prior to performing any testing, the applicant would submit a proposed verification testing protocol and have it approved by ARB. If, after reviewing the application, ARB verifies the diesel emission control strategy, it would issue an Executive Order to the applicant describing the verified emission reduction and any conditions that must be met for the diesel

emission control strategy to function properly. The applicant would also provide a warranty to the end-user and conduct in-use compliance testing.

COMPARABLE FEDERAL REGULATIONS

The U.S. Environmental Protection Agency (U.S. EPA) has published a draft document, "General Verification Protocol for Diesel Exhaust Catalysts, Particulate Filters, and Engine Modification Control Technologies for Highway and Nonroad Use Diesel Engines," but has not promulgated formal regulations for this verification protocol. This verification protocol is intended to support the voluntary retrofit programs initiated by the U.S. EPA, while the staff's proposal is to support the ARB's Diesel Risk Reduction Plan.

AVAILABILITY OF DOCUMENTS AND AGENCY CONTACT PERSONS

The ARB staff has prepared a Staff Report: Initial Statement of Reasons (ISOR) for the proposed regulatory action that includes a summary of the environmental and economic impacts of the proposal.

Copies of the Staff Report and the full text of the proposed regulatory language may be accessed on the ARB's web site listed below, or may be obtained from the ARBs Public Information Office, Environmental Services Center, 1001 "I" Street, First Floor, Sacramento, CA 95814, (916) 322-2990 at least 45 day prior to the scheduled hearing (May 16, 2002).

Upon its completion, the Final Statement of Reasons (FSOR) will also be available and copies may be requested from the agency contact persons in this notice, or may be accessed on the web site listed below.

Inquiries concerning the substance of the proposed regulation may be directed to the designated agency contact persons, Dr. David Chou, Air Resources Engineer, Retrofit Assessment Section, at (626) 450-6109, or Mr. Scott Rowland, Manager, Retrofit Assessment Section, at (626) 575-6972.

Further the agency representative and designated back-up contact persons to whom nonsubstantive inquiries concerning the proposed administrative action may be directed are Artavia Edwards, Manager, Board Administration & Regulatory Coordination Unit, (916) 322-6070, or Marie Kavan, Regulations Coordinator, (916) 322-6533. The Board staff has compiled a record for this rulemaking action, which includes all information upon which the proposal is based. This material is available for inspection upon request to the contact persons.

If you are a person with a disability and desire to obtain this document in an alternative format, please contact the ARB ADA Coordinator at (916) 232-4916, or TDD (916) 324-9531, or (800) 700-8326 for TDD calls from outside the Sacramento area.

This notice, the ISOR and all subsequent regulatory documents, including the FSOR when completed, will be available on the ARB Internet site for this rulemaking at <http://www.arb.ca.gov/regact/dieselrv/dieselrv.htm>.

COSTS TO PUBLIC AGENCIES AND TO BUSINESSES AND PERSONS AFFECTED

The determinations of the Board's Executive Officer concerning the costs or savings necessarily incurred in reasonable compliance with the proposed regulations are presented below.

Pursuant to Government Code sections 11346.5(a)(5) and 11346.5(a)(6), the Executive Officer has determined that the proposed regulatory action will not create costs or savings, to any state agency or in federal funding to the State, costs or mandate to any local agency or school district whether or not reimbursable by the State pursuant to part 7 (commencing with section 17500), division 4, title 2 of the Government Code, or other non-discretionary savings to State or local agencies.

In developing this regulatory proposal, the ARB staff evaluated the potential economic impacts on representative private persons or businesses. The ARB is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

The Executive Officer has made an initial determination that the proposed regulatory action will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states, or businesses directly affected.

In accordance with Government Code section 11346.3, the Executive Officer has determined that the proposed regulatory action will not affect the creation or elimination of jobs within the State of California, the creation of new businesses or elimination of existing businesses within California, or the expansion of businesses currently doing business within California. An assessment of the economic impacts of the proposed regulatory action can be found in the Staff Report.

The Executive Officer has also determined, pursuant to Government code section 11346.5(a)(3)(B), that the proposed regulatory action will not affect small businesses because participation in the procedure is purely voluntary with respect to any businesses. There are no cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

In accordance with Government Code sections 11346.3(c) and 11346.5(a)(11), the ARB's Executive Officer has found that the reporting requirements of

the regulation which apply to businesses are necessary for the health, safety, and welfare of the people of the State of California.

Before taking final action on the proposed regulatory action, the Board must determine that no alternative considered by the agency would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

SUBMITTAL OF COMMENTS

The public may present comments relating to this matter orally or in writing at the hearing, and in writing or by e-mail before the hearing. To be considered by the Board, written submissions must be received by **no later than 12:00 noon, May 15, 2002** and addressed to the following:

Postal Mail is to be sent to:

Clerk of the Board
Air Resources Board
1001 "I" Street, 23rd Floor
Sacramento, California 95814

Electronic mail is to be sent to: dieselrv@listserv.arb.ca.gov and received at the ARB **no later than 12:00 noon, May 15, 2002**.

Facsimile submissions are to be transmitted to the Clerk of the Board at (916) 322-3928 and received at the ARB **no later than 12:00 noon, May 15, 2002**.

The Board requests, but does not require, that 30 copies of any written statement be submitted at least 10 days prior to the hearing so that ARB staff and Board Members have time to fully consider each comment. The ARB encourages members of the public to bring to the attention of the staff in advance of the hearing any suggestions for modification of the proposed regulatory action.

STATUTORY AUTHORITY AND REFERENCES

This regulatory action is proposed under that authority granted in sections 39002, 39003, 39500, 39600, 39601, 39650-39675, 40000, 43000, 43000.5, 43011, 43013, 43018, and 43105, 43600, 43700 of the Health and Safety Code. This action is proposed to implement, interpret and make specific sections 39650-39675, 43000, 43009.5, 43013, 43018, 43101, 43104, 43105, 43106, 43107, and 43204-43205.5 of the Health and Safety Code and Title 17 California Code of Regulations section 93000.

HEARING PROCEDURES

The public hearing will be conducted in accordance with the California Administrative Procedure Act, title 2, division 3, part 1, chapter 3.5 (commencing with section 11340) of the Government Code.

Following the public hearing, the Board may adopt the regulatory language as originally proposed, or with non substantial or grammatical modifications. The Board may also adopt the proposed regulatory language with other modifications if the text as modified is sufficiently related to the originally proposed text that the public was adequately placed on notice that the regulatory language as modified could result from the proposed regulatory action; in such event the full regulatory text, with the modifications clearly indicated, will be made available to the public, for written comment, at least 15 days before it is adopted.

The public may request a copy of the modified regulatory text from the Board's Public Information Office, 1001 "I" Street, Sacramento, CA 95814, (916) 322-2990.

TITLE 14. CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD

NOTICE OF PROPOSED RULEMAKING

PROPOSED REGULATORY ACTION

The California Integrated Waste Management Board (CIWMB) proposes to amend Title 14, California Code of Regulations (14 CCR), Division 7, Chapter 3.1, Article 1, commencing with section 17850. The proposed changes are designed to develop and implement regulations that protect public health and safety and the environment and, at the same time, increase business opportunities for the diversion and beneficial use of compostable materials.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulations to the CIWMB. The written comment period for this rulemaking ends at 5:00 p.m. on May 13, 2002. The CIWMB will also accept written comments during the public hearing described below. Please submit your written comments to:

Alan Glabe
California Integrated Waste Management Board
Permitting and Enforcement Division
P.O. Box 4025
Sacramento, CA 95812-4025
FAX: (916) 319-7607
e-mail: aglab@ciwmb.ca.gov

PUBLIC HEARING

CIWMB staff will conduct a public hearing at the Joe Serna, Jr. Cal/EPA Building, 2nd Floor Central Valley Auditorium, 1001 I Street, Sacramento, CA on

May 14, 2002. The hearing will begin at 9:30 a.m. and conclude after all testimony is given. The CIWMB requests that persons who make oral comments at the hearing also submit a written copy of their testimony at the hearing. The Central Valley Auditorium is wheelchair accessible.

INFORMATIVE DIGEST

The Integrated Waste Management Act (Act) [AB 939 (Sher), Stats. 1989, c. 1095] and Public Resources Code (PRC) Section 40000 et seq., provides for the protection of public health and safety and the environment through waste prevention, waste diversion, and safe waste processing and disposal. PRC Section 40502 requires the CIWMB to adopt rules and regulations to implement this Act. PRC Section 43020 requires the CIWMB to adopt and revise regulations, which set forth minimum standards for solid waste handling, transfer, composting, transformation, and disposal. Regulations in California Code of Regulations, Title 14, Division 7, Chapter 3.1, Articles 1.0-9.0, set forth minimum operating standards and permitting requirements for the composting of solid waste.

Using nearly any definition, compostable materials comprise over 30 percent of California's solid waste stream. These materials include yard trimmings, food material, paper products, and wood waste. For many reasons, compostables are still being landfilled in large quantities, and they represent both a barrier and an opportunity for local jurisdictions to comply with AB 939's 50 percent diversion requirement. Board staff recognizes that poor handling of these materials could pose risks to public health and safety and the environment. In an effort to address the need for a balanced approach, the Board has designated compostable materials as a strategic priority area in several iterations of strategic planning.

Several regulatory rulemakings have attempted to address problems associated with the processing of organic materials. Composting activities were not regulated by the CIWMB prior to July 15, 1993, when the first version of the composting regulations took effect. These regulations only applied to the composting of green material and were prescriptive in nature.

Subsequent to this, the Board developed comprehensive composting regulations, which included additional feedstocks and removed prescriptive requirements and requirements that could be handled on a local level. The second version of these regulations took effect on July 31, 1995 and applied to traditional high temperature composting operations, which intentionally composted organic materials. Activities that inadvertently composted materials were precluded from the requirements of these regulations. Several activities were explicitly excluded from these

regulations, including vermicomposting and chipping and grinding. However, significant health, safety, and environmental impacts were identified from the operation of these activities.

As a result of these impacts, the Board adopted emergency regulations for chipping and grinding, and storage of organic materials at its February 26, 1997 meeting. In addition, clarification was given on which activities associated with vermicomposting were subject to CIWMB regulations. The regulations were approved by the OAL and became effective on April 7, 1997. Permanent regulations, the third version, took effect on January 8, 1998. These regulations did not place storage and chipping and grinding activities into permitting tiers. However, staff was directed by the Board to accomplish this at a later date.

Under discussion at this time, the Waste Prevention & Market Development and the Permitting & Enforcement divisions jointly developed the fourth version of the composting regulations. Several steps were taken to ensure participation by all interested parties. A small focus group comprised of representatives from industry, CIWMB, and LEAs was formed and several teleconferences were held to discuss issues related to development of compostable organic materials regulations. Draft regulations incorporating applicable concerns, were drafted and circulated at eight workshops held throughout the State in July and August 2000. An analysis of feedback from the workshops was prepared. Board staff have received written comments from representatives of industry and at the direction of the Board, have initiated consultations with environmental and community groups. Staff has recently conducted six meetings with stakeholders including industry representatives and LEAs. Following is a list of those meetings and the main topic(s) of discussion.

- May 21, 2001: Chipping & Grinding
- June 13, 2001: Chipping & Grinding, Odor, Tiers
- June 27, 2001: Food waste
- June 28, 2001: Agriculture, Chipping & Grinding
- July 12, 2001: Agriculture, Chipping & Grinding
- July 18, 2001: Paper waste

Other issues discussed included the odor impact minimization plan, operator training, sampling and other state minimum standards.

Using the workshop feedback, Board staff developed the attached regulatory adjustments based on a few "guiding principles." One guiding principle is that any regulatory change should help achieve the goal established in the Board's priority planning process. That goal is to develop and implement regulations that protect public health and safety and the environment and, at the same time, increase

business opportunities for the diversion and beneficial use of compostable organic materials. More specifically, the regulations:

- Should provide a "level playing field" for all stakeholders;
- Should not set stringent regulations for activities that pose relatively low risks;
- Should provide LEAs with sufficient authority and enforcement tools to ensure that organic materials are handled properly;
- Should encourage and not unduly interfere with business opportunities or markets to recycle compostable materials.

POLICY STATEMENT OVERVIEW

The CIWMB has determined that the handling of compostable materials, including storage and chipping and grinding can pose a threat to the public health, safety, or environment, and, therefore, seeks to place all such materials handling operations and facilities into the Board's regulatory framework. The proposed changes are designed to develop and implement regulations that protect public health and safety and the environment and, at the same time, increase business opportunities for the diversion and beneficial use of compostable materials. The draft regulations replace the term "composting" with the term "compostable materials handling." This language change along with the revision of section 17862.1 and the repeal of section 17862.2 affects the placement of chipping & grinding, storage and screening of compostable materials into the Board's regulatory tiers. Additionally, staff proposes to simplify the tiers to include only EA notification and Compostable Materials Handling Permit. These changes accompany allowable volume increases for agricultural, green and research composting operations within the EA Notification. Also in this proposal, the classification of operations and facilities has been collapsed to include the "Green" operation, and another facility classification, which includes all other feedstocks such as animal material, biosolids, food waste and municipal solid waste.

PLAIN ENGLISH REQUIREMENTS

CIWMB staff prepared the proposed final regulations pursuant to the standard of clarity provided in Government Code Section 11349 and the plain English requirements of Government Code Section 11342.580 and 11346.2(a)(1). The proposed final regulations are considered non-technical and are written to be easily understood by those parties that will use them.

AUTHORITY AND REFERENCES

PRC Sections 40502, 43020, and 43021 provide authority for these regulations. The purpose of the proposed regulations is to implement, interpret, and make specific PRC Sections 40053, 43020, and 43021.

FEDERAL LAW OR REGULATIONS MANDATE

Federal law or regulations do not contain comparable requirements.

**LOCAL MANDATE AND
FISCAL DETERMINATIONS**

CIWMB staff has determined that the proposed regulations do not impose: 1) a mandate on local school districts; 2) significant costs or savings to any state agency; 3) costs to any local agency or school district that must be reimbursed in accordance with Government Code Sections 17500 through 17630; 4) other non-discretionary costs or savings on local agencies; or 5) costs or savings in federal funding to the state.

EFFECT ON HOUSING COSTS

CIWMB staff made an initial determination that the proposed regulations will not have a significant effect on housing costs.

EFFECT ON BUSINESSES

CIWMB staff made an initial determination that the proposed regulations will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. It is necessary for the health, safety and welfare of the people of the State that the proposed regulations apply to businesses.

EFFECT ON SMALL BUSINESSES

The CIWMB has determined that the proposed regulatory may have an effect on small businesses within the state of California. Such businesses may bear some of the projected five-year total statewide cost of \$154,919.

**EFFECT ON CREATION OR ELIMINATION OF
JOBS, EXISTING OR NEW BUSINESS IN THE
STATE OF CALIFORNIA**

CIWMB staff has determined that the proposed regulatory action will not affect: 1) the creation or elimination of jobs within the State of California; 2) the creation of new businesses or the elimination of existing businesses within California; or 3) the expansion of businesses currently doing business with the state.

**COST IMPACTS ON REPRESENTATIVE
PRIVATE PERSONS OR BUSINESSES**

CIWMB staff analyzed the economic impact of the proposed action. The CIWMB has estimated that 25 facilities that would realize a projected annual savings of \$4,276, while 47 operations and facilities would incur projected annual increases in compliance costs ranging from \$944 to \$8,457. The economic analysis indicates a net total statewide cost of the proposed regulations of \$154,919 over a five-year period.

CONSIDERATION OF ALTERNATIVES

The CIWMB must determine that no reasonable alternative considered by the CIWMB or that has otherwise been identified and brought to the attention of the CIWMB would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed action. The CIWMB invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period.

CONTACT PERSONS

Inquiries concerning the proposed administrative action or the substance of the proposed regulations may be directed to:

Alan Glabe
California Integrated Waste Management Board
Permitting and Enforcement Division
P.O. Box 4025
Sacramento, CA 95812-4025
(916) 341-6714
FAX: (916) 319-7607
e-mail: aglab@ciwmb.ca.gov

Back-up contact person to whom inquiries concerning the proposed administrative action may be directed:

Jeff Watson
California Integrated Waste Management Board
Permitting and Enforcement Division
P.O. Box 4025
Sacramento, CA 95812-4025
(916) 341-6384
FAX: (916) 319-7190
e-mail: jeffw@ciwmb.ca.gov

**AVAILABILITY OF STATEMENT OF REASONS
AND TEXT OF PROPOSED REGULATIONS**

The CIWMB will have the entire rulemaking file, and all information upon which the proposed regulations are based, available for inspection and copying throughout the rulemaking process at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, and the

initial statement of reasons. Copies may be obtained by contacting Alan Glabe at the address, e-mail, or telephone number listed above. For more timely access to the proposed text of the regulations, and in the interest of waste prevention, interested parties are encouraged to access the CIWMB's website at <http://www.ciwmb.ca.gov/Rulemaking/Organics/>.

Additionally, the Final Statement of Reasons will be available at the above listed Internet address or you may call the contact persons named above.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

The CIWMB may adopt the proposed regulations substantially as described in this notice. If the CIWMB makes modifications which are sufficiently related to the proposed text, it will make the modified text—with changes clearly indicated—available to the public for at least 15 days before the CIWMB adopts the regulations as revised. Requests for the modified text should be made to the contact person. The CIWMB will mail any modified text to all persons who testify at a public hearing; all persons who submit written comments at a public hearing; all persons whose comments are received during the comment period; and all persons who request notification of the availability of such changes. The CIWMB will accept written comments on the modified regulations for 15 days after the date on which they are made available.

TITLE 14. CALIFORNIA RESOURCES AGENCY

NOTICE OF PUBLIC HEARING AND NOTICE OF PROPOSED AMENDMENT OF REGULATIONS IMPLEMENTING THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

NOTICE IS HEREBY GIVEN that the Resources Agency ("Agency") proposes to amend existing regulations implementing portions of Chapter 2.6 of Division 13 of the Public Resources Code, the California Environmental Quality Act ("CEQA"), as described below.

PROPOSED REGULATORY ACTION

The Agency proposes to add subsection (q) to section 15251 of Title 14, California Code of Regulations (14 CCR), Chapter 3, Article 17, as follows:

Section 15251. List of Certified Programs.

The following programs of state regulatory agencies have been certified by the Secretary for Resources as meeting the requirements of Section 21080.5:

(q) The regulatory program of the Department of Fish and Game for review and approval of voluntary local programs for routine and ongoing agricultural activities, as authorized by the California Endangered Species Act, Fish and Game Code section 2086.

Authority: Sections 21083 and 21080.5, Public Resources Code.

Reference: Section 21080.5, Public Resources Code.

PUBLIC HEARING

The Agency will conduct a public hearing to receive comments, objections, and recommendations regarding the proposed action. The hearing will be held:

Date: May 23, 2002

Time: 9 a.m.

Place: Resources Building Auditorium
1416 Ninth Street
Sacramento

At the hearing, any person interested may present comments orally or in writing, or both, that are relevant to the proposed regulations. Persons wishing to testify are asked to notify the Agency as early as possible by calling Linda Green at (916) 653-5481 so that a schedule for the presentation of comments may be prepared. Advance notification is not a requirement, however, for a person to present comments at the hearing. The hearing will be closed when all persons present have had an opportunity to comment on the proposed regulations. Time limits may be placed on oral comments to ensure that all persons wishing to comment have an opportunity within the available time for the hearing.

WRITTEN COMMENT PERIOD

Any interested person may submit written comments relevant to the proposed regulations. Written comments must be received by May 23, 2002 at 5:00 p.m. Written comments may be delivered, mailed, or transmitted by facsimile or by electronic mail. Written comments should be addressed as follows:

Margret J. Kim
General Counsel
Resources Agency
State of California
1416 Ninth Street, Suite 1311
Sacramento, California 95814
Facsimile: (916) 653-8123
Electronic mail: ceqa.rulemaking@resources.ca.gov

INQUIRIES AND ADDITIONAL INFORMATION

Inquiries relating to the proposed administrative action should be directed to Linda Green at (916) 653-5481 or, if she is unavailable, to Nathan

Goedde at (916) 653-5481. Inquiries about the substance of the proposed regulations should be addressed to Margret J. Kim.

The Agency has prepared an Initial Statement of Reasons providing an explanation of the purpose, background, and justification for the adoption of the proposed regulations. Anyone may view and print a copy of the statement or the text of the proposed revisions by accessing the following page on the Agency's Internet website: <http://ceres.ca.gov/cega/index.html>. Copies of the initial statement and text of the regulations are also available upon request from Linda Green at (916) 653-5481. The entire rulemaking file is available for public inspection at 1416 Ninth Street, Suite 1311, Sacramento, California 95814.

Anyone wishing to receive future notices related to the proposed action and/or receive a copy of the Final Statement of Reasons should submit a written request containing their postal mailing address to Linda Green, Resources Agency, State of California, 1416 Ninth Street, Suite 1311, Sacramento, California 95814. These requests can also be submitted by fax at (916) 653-8123. The Agency must have a mailing address to provide public notices and the final statement; these documents will not be distributed by electronic mail.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Summary of Existing Laws and Regulations

CEQA requires public agencies to analyze significant adverse environmental effects of activities that they propose to carry out, fund or approve, and to consider feasible alternatives and mitigation measures that would substantially reduce such impacts that are identified. CEQA compliance usually involves preparation by a public agency of either a negative declaration or an environmental impact report. However, state regulatory programs that are designed to protect the environment may be exempt from certain CEQA requirements governing the preparation and approval of negative declarations and environmental impact reports if the Secretary for Resources ("Secretary") certifies pursuant to section 21080.5 of the Public Resources Code that the regulatory program provides a review process that is equivalent to that provided by CEQA, as judged by certification standards set forth in CEQA. To date, 16 regulatory programs have been certified as providing an environmental review process equivalent to that in CEQA; these programs are listed at 14 CCR section 15251.

Summary of the Proposed Amendments

The Department of Fish and Game ("Department") has asked the Secretary to certify its proposed regulatory program under the California Endangered

Species Act ("CESA") governing development and approval of voluntary local agricultural programs pursuant to section 2086 of the Fish and Game Code. The regulatory program for which certification is sought is set forth in the proposed revised regulations for 14 CCR sections 786.0 to 786.8 as noticed by the Department on January 25, 2002 in the California Regulatory Notice Register. (Text of the Department's proposed regulations and related documents may be obtained by calling 916-445-9811 or on the Internet at www.dfg.ca.gov/CESAregs.html.) In response to the Department's request, the Secretary will consider certifying the Department's program for voluntary local agricultural programs pursuant to section 21080.5 of the Public Resources Code, and, if the program is certified, will amend 14 CCR section 15251 to add the program to the list of certified regulatory programs. The Secretary will consider certification of the program and amendment of 14 CCR section 15251 only if the Department adopts regulations as proposed on January 25, 2002 or in modified form as permitted under section 11346.8(c) of the Government Code, and those adopted regulations are filed with the Secretary of State.

Federal Regulation and Statute

CEQA is similar in some respects to the National Environmental Policy Act, 42 U.S.C. section 4321 et seq. ("NEPA"), but NEPA requires environmental review by federal agencies while CEQA requires environmental review by state and local agencies in California. The proposed regulations do not duplicate or conflict with any federal statutes or regulations.

Objectives of the Proposed Amendments

The objective of the proposed amendment is to integrate CEQA and the Department's review and approval of voluntary local programs authorized by section 2086 of the Fish and Game Code with the goal of streamlining the process in a manner consistent with both CEQA and CESA.

FISCAL AND FINANCIAL IMPACTS

Mandates on Local Agencies and School Districts

The Agency has determined that the proposed action will not impose a mandate on local agencies or school districts.

Cost or Savings to Any State Agency, Local Agency, School District

No costs have been identified from the proposed action for any state agency, local agency, or school district. Because certification of the Department's regulatory program does not impose a mandate on local agencies or school districts, no state reimbursement under Government Code sections 17500 et seq. will be required. The proposed action may result in

savings to the Department and to any local agencies that might voluntarily assume responsibility for preparing a local program pursuant to section 2086 of the Fish and Game Code because the Department and local agency preparers will not have to separately comply with CEQA procedural requirements.

Cost or Savings in Federal Funds to the State

Adoption of the proposed action will have no effect on federal funding of state programs.

Significant Adverse Economic Impacts on Business

The Agency has initially determined that the proposed action will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states, because certification would streamline the process for complying with CEQA.

Effect on Small Businesses

The proposed action will not have an adverse economic impact on small businesses because certification would streamline the process for complying with CEQA.

Effect on Housing Costs

The Agency has made an initial determination that the proposed action will not have an adverse impact on housing costs.

Cost Impacts on a Representative Person or Business

The Agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Assessment of Potential for Adverse Economic Impact

The Agency has assessed the potential for the proposed action to adversely affect California business enterprises and individuals, including whether it will affect the creation or elimination of jobs or the creation, elimination or expansion of businesses, as required by Government Code section 11346.3. The proposed action is not expected to have a positive or adverse effect on jobs or businesses in California. The Agency has also concluded that proposed revised regulations will not impose unnecessary or unreasonable reporting, recordkeeping or compliance requirements.

The Agency's complete Economic and Fiscal Impact Statement (Form Std 399) for the proposed action is available from the agency contact person named in this notice, or can be viewed on the Agency's Internet site.

CONSIDERATION OF ALTERNATIVES

The Agency must determine that no reasonable alternative considered by the Agency or otherwise identified and brought to its attention would be more effective in carrying out the purpose for which the proposed action is proposed, or would be as effective and less burdensome to affected private persons than adoption of the proposed amendments.

**AVAILABILITY OF CHANGED
OR MODIFIED TEXT**

If the Agency makes changes in the text of its proposed action, the revised text will be available to the public at least fifteen (15) days prior to the date on which the Agency considers the proposed regulation for adoption unless the change is nonsubstantial or solely grammatical in nature. Changes must be sufficiently related to the original text that the public was adequately placed on notice that the change could result from the originally proposed action.

AUTHORITY AND REFERENCE SECTIONS

The authority for the proposed regulations is found in sections 21083 and 21080.5 of the Public Resources Code. The proposed regulations would implement, interpret or make specific section 21080.5 of the Public Resources Code.

**TITLE 28. DEPARTMENT OF
MANAGED HEALTH CARE**

**NOTICE OF INTENT TO ADOPT REGULATIONS
REGARDING ADMINISTRATION**

NOTICE IS HEREBY GIVEN

The Director of the Department of Managed Health Care (Director), pursuant to the rulemaking authority granted by sections 1344 and 1346 of the Health and Safety Code, proposes to implement, interpret and make specific sections 1340 through 1399 of the Health and Safety Code by adopting sections 1001 through 1008 in Title 28, California Code of Regulations (CCR) relating to the daily and ongoing administration of the Department when dealing with the public.

PUBLIC HEARING

No public hearing is scheduled. Any interested person or his or her duly authorized representative may request, in writing, a public hearing pursuant to section 11346.8(a) of the Government Code. The request for hearing must be received in writing by the Department of Managed Health Care (Department) contact person designated below no later than 15 days prior to the close of the written comment period.

**WRITTEN COMMENT PERIOD/
CONTACT PERSON**

Notice is also given that any interested person may present statements or arguments relevant to the proposed action by a written communication addressed to, and received by, the Department's contact person identified below on or before 5 p.m. on May 13, 2002. If this day is a Saturday, Sunday or state holiday, the comment period will close at 5 p.m. on the next business day. Written communications may also be sent to Lyn Amor Macaraeg via electronic mail at lmacaraeg@dmhc.ca.gov or via facsimile at (916) 324-6459.

**INFORMATIVE DIGEST/POLICY
STATEMENT OVERVIEW**

California Health and Safety code sections 1344 and 1346 vest the Director with the power to administer and enforce the provisions of the Knox-Keene Health Care Service Plan Act of 1975 (Act).

California Health and Safety Code section 1344 mandates that the Director have the ability to adopt, amend, and rescind such rules, forms, and orders as are necessary to carry out the provisions of this chapter, including rules governing applications and reports, and defining any terms, whether or not used in this chapter, insofar as the definitions are not inconsistent with the provisions of the Act. Furthermore, the Director may waive any requirement of any rule or form in situations where in the Director's discretion such requirement is not necessary in the public interest or for the protection of the public, subscribers, enrollees, or persons or plans subject to this chapter. In addition, the Director may honor requests from interested parties for interpretive opinions.

California Health and Safety code section 1346 vests in the Director the power to administer and enforce the Act, including but not limited to recommending and proposing the enactment of any legislation necessary to protect and promote the interests of plans, subscribers, enrollees, and the public.

The Department proposes regulation sections 1001 through 1008 to effectuate regulations pertaining to the daily and ongoing administration of the Department when dealing with the public.

Section 1001 states that the Department shall maintain an internet web page containing information about the Department, its functions and its activities. The web site ensures public accessibility to important information regarding the Department.

Section 1002 addresses appearances and practices before the Department.

Section 1003 specifies procedures governing public comment during Department meetings.

Section 1004 sets forth procedures for verification under penalty of perjury for documents filed with the Department.

Section 1005 sets forth procedures for requests for Interpretive Opinions.

Section 1006 states that there shall be public access to records maintained by the Department, pursuant to the Public Records Act.

Section 1007 describes the procedures used when handling requests for confidentiality of records.

Section 1008 addresses the availability of Department forms, publications, notices and fees for providing requested information to the public.

On July 1, 2000, the Department of Managed Health Care officially became a separate state agency vested with the authority to regulate, license, and monitor the health care industry throughout California. Health and Safety Code sections 1341.9 and 1344 transferred the powers and duties relating to health care service plans and related matters from the Department of Corporations (Corporations) to the Department, including regulatory authority.

Prior to July 1, 2000, regulations pertaining to Managed Health Care were contained within California Code of Regulations, Title 10. After the creation of the Department, all regulations used exclusively by Corporations, Health Plan Division were transferred to The Department of Managed Health Care, Title 28. However, those regulations pertaining to the daily and ongoing administration of Corporations, and were not exclusively used by the Health Plan Division, were not transferred to Title 28. It is these regulations that are covered in proposed sections 1001 through 1008.

The Department continues to use the administrative regulations in Title 10. For example, the administrative regulation pertaining to requests for confidentiality is regularly used by the Department's Licensing Division and continues to cite to the regulation in Title 10.

Sections 1001 through 1008 in Title 28, CCR transfers from Title 10 regulations for the daily and ongoing administration of the Department. Doing so will make these regulations more readily accessible to the general public and enable the Department to carry out its vested duties.

AUTHORITY

California Health & Safety Code sections 1344 and 1346.

REFERENCE

California Health & Safety Code section 1340-1399, Gov't Code Section 6250 et seq. (Public Records Act), Gov't Code Section 11120 et seq. (Open Meetings Act).

AVAILABILITY OF INITIAL STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS, AND RULEMAKING FILE

The Department has prepared and has available for public review the following documents:

1. An initial statement of reasons for the new and amended regulations;
2. Text of the legally effective regulations; and,
3. All information upon which this proposal is based (rulemaking file).

A copy of any or all of these items is available upon request by writing to the Department of Managed Health Care, ATTN: Ms. Lyn Amor Macaraeg, 980 9th Street, Suite 500, Sacramento, California 95814, which address will also be the location of public records, including reports, documentation, and other material related to this notice of proposed action. Additionally, a copy of the final statement of reasons (when prepared) will be available upon request by writing to the same address.

INTERNET AVAILABILITY

Materials regarding this notice of proposed action that are available via the Internet may be accessed at the following website: <http://www.dmhc.ca.gov/library/regulations/>.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

The text of any modified regulation, unless the modification is only non-substantial or solely grammatical in nature, will be made available to the public at least 15 days prior to the date the Department adopts the regulation. The changes will be clearly indicated. A request for a copy of any modified regulation should be addressed to the contact person designated below. The Director will accept written comments on the modified regulation for 15 days after the date on which they are made available. The Director may thereafter adopt, amend or repeal the foregoing proposal substantially as set forth above without further notice.

ALTERNATIVES CONSIDERED

In accordance with Government Code section 11346.5(a)(13), the Department must determine that no reasonable alternative considered by the Department or that has otherwise been identified and brought to its attention would be more effective in carrying out

the purpose for which the above action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The Department invites interested persons to present statements or arguments with respect to alternatives to the proposed regulation during the comment period.

FISCAL IMPACT

- Cost or savings to any state agency: None.
- Cost to any local agency or school district for which Cal. Gov't Code section 17500-17630 requires reimbursement: None.
- Other non-discretionary cost or savings imposed upon local agencies: None.
- Costs or savings in federal funding to the state: None.
- Effect on housing costs: None.

DETERMINATIONS

The Director has determined that the proposed regulatory action:

- Has no economic impact on small businesses. Health care service plans are not a small business under Cal. Gov't Code section 11342(h)(2).
- Does not imposed a mandate on local agencies or school districts, or a mandate which requires reimbursement pursuant to Cal. Gov't Code section 17500 et seq.
- In his *initial* determination and pursuant to Cal. Gov't Code 11346.5(a)(8), will not have a significant statewide adverse economic impact directly affecting business, including the ability of California to compete with businesses in other states.
- No persons or business will incur known costs in reasonable compliance with this proposed regulation;
- Per CA. Gov't Code section 11346.5(a)(10), does not significantly affect:
 - o The creation of jobs in California;
 - o The elimination of jobs in California;
 - o The creation of new businesses in California;
 - o The elimination of existing business in California;
 - o The expansion of existing businesses in California.

CONTACT PERSON

Comments or inquiries and substantive questions concerning this proposed regulation may be directed to CURTIS LEAVITT, Assistant Chief Counsel, or to the back up comment person, LYN AMOR MACARAEG,

Department of Managed Health Care, Office of Legal Services, 980 Ninth Street, Suite 500, Sacramento, California 95814, (916) 322-6727.

GENERAL PUBLIC INTEREST

**DEPARTMENT OF TOXIC
SUBSTANCES CONTROL**

**NOTICE OF CONSENT DECREE
MOBILE SMELTING SITE
MOJAVE, CALIFORNIA**

The Department of Toxic Substances Control ("DTSC"), pursuant to the authority vested in DTSC under California Health and Safety Code, Sections 25360 and 58009, proposes to finalize a Consent Decree regarding the Mobile Smelting Site located at United Street and Reed Road in Mojave, California ("Site") with the Burlington Northern and Santa Fe Railway Company.

On January 13, 1997, DTSC filed a complaint in United States District Court, Eastern District of California, Docket No. CV-F-97 5016 OWW LJO, against a number of defendants under the provisions of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. sections 9601 et seq. and the Resource Conservation and Recovery Act, 42 U.S.C. sections 6901 et seq.. DTSC subsequently filed a First and Second Amended Complaint. The Consent Decree is intended to obtain settlement, as specified in the Consent Decree, with the Burlington Northern and Santa Fe Railway Company on DTSC's complaint, which includes response costs incurred and to be incurred by DTSC at or in connection with the Site. The Consent Decree provides for contribution protection to the defendant to the fullest extent provided by law.

DTSC will consider public comments on the Consent Decree which are received by DTSC within thirty (30) days of the date of this notice. DTSC may withhold finalization of the Consent Decree if such comments disclose facts or considerations that indicate the proposed Consent Decree is inappropriate, improper or inadequate.

The Consent Decree and additional background information relating to the Site are available for public inspection at the Department of Toxic Substances Control, 1515 Tollhouse Rd., Clovis, California 93611. A copy of the Consent Decree may also be obtained by contacting the DTSC representative listed below:

Reuben Medina, Project Manager
Site Mitigation Cleanup Operations
Department of Toxic Substances Control
1515 Tollhouse Rd.
Clovis, California 93611
Phone: (559) 297-3901
Facsimile: (559) 297-3931

PROPOSITION 65

**CALIFORNIA ENVIRONMENTAL
PROTECTION AGENCY
OFFICE OF ENVIRONMENTAL
HEALTH HAZARD ASSESSMENT**

**SAFE DRINKING WATER AND TOXIC
ENFORCEMENT ACT OF 1986
(PROPOSITION 65)**

**NOTICE OF INTENT TO LIST CHEMICALS
MARCH 29, 2002**

The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65) provides two mechanisms for administratively listing chemicals which are known to the State to cause cancer or reproductive toxicity [Health and Safety Code Section 25249.8(b)]. One mechanism by which a chemical is listed is if a body considered to be authoritative by the state's qualified experts has formally identified it as causing cancer or reproductive toxicity. For carcinogenicity, the United States Environmental Protection Agency (U.S. EPA), the International Agency for Research on Cancer (IARC), the National Toxicology Program (NTP), the United States Food and Drug Administration (FDA), and the National Institute for Occupational Safety and Health (NIOSH) have been identified as authoritative bodies for purposes of the Act. For reproductive toxicity, U.S. EPA, IARC (for transplacental carcinogenicity only), FDA, and NIOSH have been identified as authoritative bodies for purposes of the Act. The criteria for listing chemicals through the authoritative bodies mechanism are set forth in Title 22, California Code of Regulations (22 CCR), Section 12306.

As the lead agency for the implementation of Proposition 65, the Office of Environmental Health Hazard Assessment (OEHHA) of the California Environmental Protection Agency intends to list diuron as known to the State to cause cancer pursuant to the authoritative bodies mechanism provided in Health and Safety Code Section 25249.8(b).

In a public notice published in the *California Regulatory Notice Register (CRNR)* on June 2, 2000 (Register 00, 22-Z), OEHHA announced diuron was under consideration for administrative listing based on a review of information indicating that it may meet the criteria set forth in 22 CCR, Section 12306. OEHHA solicited comments and information relevant to the evaluation of this chemical in the context of the regulatory criteria for administrative listing under Proposition 65. A public forum was held on July 11, 2000 to provide an opportunity for oral comments. Oral and written comments were received. OEHHA has completed its review of the comments and has determined that diuron meets the criteria for authoritative bodies listing. A document providing the basis for the listing of this chemical can be obtained from OEHHA's Proposition 65 Implementation Office at the address and telephone number indicated below, or from the OEHHA Home Page at www.oehha.ca.gov/.

Under the authoritative bodies mechanism, objections to the listing shall be made on the basis that there is no substantial evidence that the criteria of sufficiency of evidence of carcinogenicity identified in 22 CCR, Section 12306 have been satisfied. Any one wishing to object to the listing of diuron should submit written comments in triplicate, along with supporting documentation, by mail or by fax to:

Ms. Cynthia Oshita
Office of Environmental Health Hazard Assessment
Street Address: 1001 I Street, 19th Floor
Sacramento, California 95814
Mailing Address: P.O. Box 4010
Sacramento, California 95812-4010
Fax No.: (916) 323-8803
Telephone: (916) 445-6900

Comments may also be hand-delivered to Ms. Oshita at the Office of Environmental Health Hazard Assessment at the same address.

In order to be considered, comments must be postmarked (if sent by mail) or received at OEHHA (if hand-delivered or sent by fax) by 5:00 p.m. on Monday, April 29, 2002.

Chemical determined by OEHHA to meet the criteria set forth in 22 CCR, Section 12306 for listing as causing **cancer** under the authoritative bodies mechanism:

Chemical	CAS No.	Reference
Diuron	330-54-1	U.S. EPA (1997)

References:

U.S. Environmental Protection Agency (U.S. EPA, 1997). *Memo-randum: Carcinogenicity Peer Review of Diuron*. Office of Prevention, Pesticides and Toxic Substances. May 8, 1997.

DECISION NOT TO PROCEED

TITLE 14. DEPARTMENT OF CONSERVATION

DECISION NOT TO PROCEED

The Department of Conservation (Department) has decided not to proceed with the Notice of Proposed Action for the Notice of Violation Regulation File. We understand that publication of a notice under Section 11347 of the Government Code terminates the effect of the original Notice of Proposed Action published in the California Regulatory Notice Register on November 23, 2001. The Department will also publish this notice of a decision not to proceed with the Notice of Violation Regulation File on our website.

OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

NOTICE OF DECISION NOT TO PROCEED

Pursuant to Government Code Section 11347, the Occupational Safety and Health Standards Board of the State of California decided not to proceed with Title 8, General Industry Safety Orders, Chapter 4, Subchapter 7, Article 7, Section 3291(f), Permanent Rooftop Installations—Use of Roof Tie-backs on Buildings, (Notice File No. Z-01-1214-02, published January 4, 2002, in the California Notice Register 2002, No. 1-Z, page 2), based on comments received and therefore, withdraws this proposed action for further consideration.

The Board will initiate at a later date, with notice as required by law, a new proposal to adopt regulations pertaining to the same or similar subject matter.

RULEMAKING PETITION DECISIONS

DEPARTMENT OF CORRECTIONS

NOTICE OF DECISION ON PETITION TO ADOPT REGULATIONS

Title 15, Crime Prevention and Corrections Division 3, Department of Corrections

PETITIONER

Raymond Lambirth.

AUTHORITY

Under authority established in Penal Code (PC) Section 5058 the Director may prescribe and amend regulations for the administration of prisons. PC Section 5054 vests with the Director the supervision, management and control of the prisons, and the responsibility for the care, custody, treatment, training, discipline, and employment of persons confined therein.

CONTACT PERSON

Please direct any inquiries regarding this action to Rick Grenz, Chief, Regulation and Policy Management Branch, Department of Corrections, P.O. Box 942883, Sacramento, CA 94283-0001, or telephone (916) 322-9702.

AVAILABILITY OF PETITION

The petition for adoption of regulations is available upon request directed to the Department's contact person.

SUMMARY OF PETITION

Petitioner requests the Department of Corrections to adopt regulations in the California Code of Regulations (CCR), Subchapter 4, Article 8 regarding Medical and Dental Services. The Petitioner requests that the Department adopt regulations that will direct and dictate the methodology in its treatment of prisoners that are diagnosed with hepatitis C.

DEPARTMENT DECISION

The Director of Corrections denies the petition to adopt regulations in Subchapter 4, Article 8 of the CCR.

The CCR, Section 3350 clearly states that the Department shall provide medical services for inmates, which are based on medical necessity and supported by outcome data as effective medical care. The Department also contends that in Section 3350, inmates are provided with medically necessary health care services, including, but not limited to testing for disease, studying the outcome data, and follow-up treatment.

The Department contends that guidelines provided by the Center for Disease Control and Prevention (CDCP) have been adopted by the Department's Health Care Services Division (HCSD) as Treatment Protocol at the individual institutions. Treatment Protocol is handled on a case-by-case basis at the individual institutions. Specific to the treatment of hepatitis C, the Department provides health care services to inmates in accordance with the CDCP guidelines.

The Petitioner requests that the Department follow specific guidelines for treatment of hepatitis C. The National Digestive Diseases Information Clearing-

house (NDDIC) also provides the HCSD with guidelines regarding treatment of hepatitis C and is utilized on a case-by-case basis at the individual institutions. The Department adheres to the methodology of treatment and evaluation guidelines as published by the National Institute of Health, CDCP and the NDDIC. The Treatment Protocol for individual inmates is determined by the attending physician and is determined to be reasonable and necessary to protect life.

<p>SUMMARY OF REGULATORY ACTIONS</p>

**REGULATIONS FILED WITH
SECRETARY OF STATE**

This Summary of Regulatory Actions lists regulations filed with the Secretary of State on the dates indicated. Copies of the regulations may be obtained by contacting the agency or from the Secretary of State, Archives, 1020 O Street, Sacramento, CA, 95814, (916) 653-7715. Please have the agency name and the date filed (see below) when making a request.

BOARD OF EDUCATION

Classroom and Nonclassroom-Based Instruction in Charter Schools

These proposed regulations implement SB 740, Chapter 892, Statutes of 2001, which (1) mandates the Board of Education to set criteria and a process for funding non-classroom-based instruction in charter schools at a reduced percentage of ADA, based on statutory criteria to be further specified in regulations; (2) deems the regulations to be emergency regulations in effect for 180 days; and (3) sets deadlines for the Board to adopt regulations, receive requests for FY 2001-02 funding (without which no funding is permitted for non-classroom-based instruction charter schools), and act on applications (if the Board doesn't act by the deadline, requests are approved at 100% funding by default).

Title 5

California Code of Regulations

ADOPT: 11963, 11963.1, 11963.2, 11963.3, 11963.4

Filed 03/15/02

Effective 03/15/02

Agency Contact: Pat McGinnis (916) 657-4669

CALIFORNIA EARTHQUAKE AUTHORITY

Conflict of Interest Code

This is a Conflict of Interest Code filing which has been approved by the Fair Political Practices Commission and is being submitted for filing with the Secretary of State and printing only.

Title 2

California Code of Regulations

AMEND: 56800

Filed 03/13/02

Effective 04/12/02

Agency Contact: Niel Hall (916) 492-4300

CALIFORNIA GAMBLING CONTROL

COMMISSION

Work Permits—Grounds of Denial; Issuance of Temporary Permits

This emergency regulatory action adopts the requirements for obtaining a temporary work permit and the standards the Commission will use to deny an application for a work permit. (Previous OAL file ## 01-1109-08E and 01-1121-06E)

Title 4

California Code of Regulations

ADOPT: 12100, 12102, 12104, 12106, 12108, 12120, 12130

Filed 03/19/02

Effective 03/19/02

Agency Contact: Herb Bolz (916) 327-8272

CALIFORNIA HIGHWAY PATROL

Motor Carrier Safety—Carrier Identification Numbers

The regulatory action deals with carrier identification numbers.

Title 13

California Code of Regulations

ADOPT: 1235.1, 1235.2, 1235.3, 1235.4, 1235.5, 1235.6 AMEND: 1200

Filed 03/20/02

Effective 04/19/02

Agency Contact: Gary Ritz (916) 445-1865

CALIFORNIA INTEGRATED WASTE

MANAGEMENT BOARD

Refund of Lubricating Oil Payment

The California Integrated Waste Management Board is adopting the captioned section pertaining to the refund of lubricating oil payment.

Title 14

California Code of Regulations

ADOPT: 18627

Filed 03/13/02

Effective 03/13/02

Agency Contact: Jody Feldman (916) 341-6755

COMMISSION ON PEACE OFFICER

STANDARDS AND TRAINING

Stalking Training Minimum Standards

This rulemaking establishes a course of instruction for the training of peace officers in the handling of, and responding to, stalking complaints.

Title 11

California Code of Regulations

ADOPT: 1081(a) [31]

Filed 03/14/02

Effective 04/13/02

Agency Contact: Leah Cherry (916) 227-3891

DEPARTMENT OF CHILD SUPPORT SERVICES

Interstate Cases

This emergency action (R-5-01E) readopts definitions and general provisions pertaining to interstate child support cases. It also repeals DSS' Manual of Policies and Procedures regulations concerning interstate cases.

Title 22

California Code of Regulations

ADOPT: 110250, 110374, 117016, 117019, 117021, 117025, 117030, 117036, 117042, 117047, 117049, 117052, 117054, 117064, 117074, 117080, 117083, 117085, 117089, 117091, 117094, 117200, 117300, 117301, 117302, 117303, 117400, 117401, 117402, 117403, 117404,

Filed 03/19/02

Effective 03/26/02

Agency Contact: Lucila Ledesma (916) 464-5087

DEPARTMENT OF CORPORATIONS

California Finance Lenders Law Long and short form for Licensure

This emergency regulatory action adopts the forms for licensure to do business as a finance lender or broker.

Title 10

California Code of Regulations

ADOPT: 1422 & 1423

Filed 03/18/02

Effective 03/18/02

Agency Contact: Kathy Womack (916) 322-3553

DEPARTMENT OF CORRECTIONS

Employee Sexual Misconduct

This rulemaking permits victims who report sexual misconduct to be advised and may request that their identity be kept confidential.

Title 15

California Code of Regulations

AMEND: 3401.5

Filed 03/20/02

Effective 04/19/02

Agency Contact: Peggy McHenry (916) 324-6775

**DEPARTMENT OF PERSONNEL
ADMINISTRATION
Time-Off**

These regulations concern excluded employees who take time off to serve as a member of a precinct election board. These regulations are submitted for printing only and are exempt from OAL review pursuant to Government Code section 3539.5.

Title 2
California Code of Regulations
ADOPT: 599.930
Filed 03/19/02
Effective 03/19/02
Agency Contact:
Robert K. Clifford (916) 322-5714

**FISH AND GAME COMMISSION
Nearshore Fishery Permits**

This regulatory action revises the restricted nearshore fishery permit regulations to only issue permits to persons who have previously held a valid 2000–2001 Nearshore Fishery Permit and who have made landings that cumulatively total 100 pounds of any of the nine nearshore species for which a Nearshore Fishery Permit is required (pursuant to section 150.01 of title 14 of the California Code of Regulations) between January 1, 1994 and December 31, 2000 as documented by Department of Fish and Game landing receipts.

Title 14
California Code of Regulations
AMEND: 150
Filed 03/14/02
Effective 03/14/02
Agency Contact: John M. Duffy (916) 653-4899

**FISH AND GAME COMMISSION
Spot Prawn**

This regulatory action would revise the existing provisions establishing a restricted spot prawn trap fishery.

Title 14
California Code of Regulations
AMEND: 180.3
Filed 03/14/02
Effective 03/15/02
Agency Contact: John M. Duffy (916) 653-4899

**FRANCHISE TAX BOARD
Penalties for Failure to Supply Information of Documents**

The Franchise Tax Board is amending the captioned section pertaining to penalties for failure to supply information or documents, to bring said section into conformity with Ch. 605, Stats. 1997, and Ch. 862, Stats. 2000.

Title 18
California Code of Regulations
AMEND: 25112
Filed 03/19/02
Effective 03/19/02
Agency Contact:
Colleen Berwick (916) 845-3306

**FRANCHISE TAX BOARD
Deduction for Certain Dividends**

This action would conform this section to make it consistent with the applicable statutes for the deduction of qualifying dividends. It would revise the amount of the foreign dividend deduction to reflect a flat 75% or 100% of the qualified dividends. It would include banks in the definition of corporation. It would describe how much of a distribution will be considered “intercompany” for purposes of the elimination rules of Revenue and Taxation Code section 25106. It would replace references to income year with the term taxable year for the first taxable year beginning after 1999.

Title 18
California Code of Regulations
AMEND: 24411
Filed 03/13/02
Effective 04/12/02
Agency Contact:
Colleen Berwick (916) 845-3306

**PUBLIC EMPLOYEES’ RETIREMENT SYSTEM
CalPERS Health Plan Subscriber Eligibility**

This Certificate of Compliance permits employees to subscribe to a health plan which covers a restricted geographic area whether or not the employee lives in that area.

Title 2
California Code of Regulations
AMEND: 599.502, 599.508
Filed 03/18/02
Effective 03/18/02
Agency Contact: Joe Parilo (916) 326-3484

**STATE ALLOCATION BOARD
Federal School Repair and Renovation Program**

The proposed emergency regulatory action implements the Federal School Repair and Renovation Program established by Section 1(a)(1), United States Department of Education Consolidated Appropriations Act of 2001 (Public Law 106-554).

Title 2
California Code of Regulations
ADOPT: 1859.200, 1859.201, 1859.202, 1859.203, 1859.204, 1859.205, 1859.206, 1859.207, 1859.208, 1859.209, 1859.210, 1859.211, 1859.212, 1859.213, 1859.214, 1859.215, 1859.216, 1859.217, 1859.218, 1859.219, 1859.220

Filed 03/15/02
 Effective 03/15/02
 Agency Contact: Lisa Jones (916) 322-1043

**CCR CHANGES FILED WITH THE
 SECRETARY OF STATE
 WITHIN NOVEMBER 14, 2001
 TO MARCH 20, 2002**

All regulatory actions filed by OAL during this period are listed below by California Code of Regulation's titles, then by date filed with the Secretary of State, with the Manual of Policies and Procedures changes adopted by the Department of Social Services listed last. For further information on a particular file, contact the person listed in the Summary of Regulatory Actions section of the Notice Register published on the first Friday more than nine days after the date filed.

Title 1

02/22/02 AMEND: 121, Appendix A
 01/08/02 AMEND: 1402, 1414, 1437

Title 2

03/19/02 ADOPT: 599.930
 03/18/02 AMEND: 599.502, 599.508
 03/15/02 ADOPT: 1859.200, 1859.201, 1859.202, 1859.203, 1859.204, 1859.205, 1859.206, 1859.207, 1859.208, 1859.209, 1859.210, 1859.211, 1859.212, 1859.213, 1859.214, 1859.215, 1859.216, 1859.217, 1859.218, 1859.219, 1859.220
 03/13/02 AMEND: 56800
 03/07/02 ADOPT: 2351
 02/19/02 ADOPT: 18530.8
 02/19/02 ADOPT: 18543 REPEAL: 18543
 02/19/02 ADOPT: 18450.11
 02/14/02 ADOPT: 18404.1 REPEAL: 18404.2
 02/05/02 ADOPT: 433.1 AMEND: 433
 01/31/02 ADOPT: 18421.4
 01/30/02 AMEND: 55300
 01/24/02 ADOPT: 58500
 01/24/02 ADOPT: 18450.3, 18450.4, 18450.5 AMEND: 18402
 01/22/02 AMEND: 18706
 01/16/02 ADOPT: 18539, 18550
 01/16/02 AMEND: 18232, 18702.1, 18705.5, 18708
 12/27/01 AMEND: 18428
 12/26/01 AMEND: 2554(b)(4), 2555(a)(1)
 12/21/01 AMEND: 1859.2, 1859.81
 12/20/01 AMEND: 2300(b)
 12/20/01 AMEND: 45100
 12/18/01 AMEND: 2541(c), 2541(d)
 12/12/01 ADOPT: 1896.300, 1896.310, 1896.320, 1896.330, 1896.340, 1896.350, 1896.360, 1896.370

11/27/01 ADOPT: 599.911, 599.912, 599.913
 11/26/01 ADOPT: 18540
 11/16/01 ADOPT: 18539.2

Title 3

03/12/02 AMEND: 3423(b)
 03/12/02 AMEND: 3423(b)
 03/08/02 ADOPT: 306, 6188, 6780 AMEND: 6000
 02/22/02 AMEND: Div. 1, Chapter 1.1, Section 2 and Appendix
 02/20/02 AMEND: 3591.16(a)
 02/07/02 AMEND: 3591.12 (a)
 02/04/02 AMEND: 3591.13 (a)
 02/04/02 AMEND: 1392.1, 1392.2, 1392.4, 1392.9.1
 01/30/02 ADOPT: 2681, 2799 AMEND: 2675, 2676, 2694, 2695, 2697, 2701, 2734, 2773.1, 2773.5, 2774, 2774.5, 2775, 2778, 2782, 2783, 2783.5, 2788, 2789, 2790, 2790.5, 2793, 2794, 2796, 2798, 2801, 2802
 01/14/02 AMEND: 3423 (b)
 01/14/02 AMEND: 3406 (b)
 01/08/02 AMEND: 576.1
 01/04/02 AMEND: 3591.16 (a)
 12/27/01 AMEND: 2
 12/26/01 ADOPT: 950, 951, 952, 953, 954, 955 AMEND: 900.1, 901, 927, 930, 931
 12/26/01 AMEND: 6650, 6654, 6656
 12/20/01 ADOPT: 7010
 12/14/01 AMEND: 3700 (a),(b),(c)
 12/12/01 AMEND: 3591.2(a)
 12/05/01 ADOPT: 1301, 1301.1, 1301.2, 1301.3, 1301.4, 1301.5, 1301.6, 1301.7, 1301.8, 1301.9
 12/04/01 AMEND: 3591.12(a)
 11/28/01 AMEND: 3430(b)
 11/28/01 AMEND: 1359, 1392.4, 1436.30 REPEAL: 1359.1, 1360, 1361, 1362, 1363
 11/27/01 AMEND: 6252, 6256
 11/26/01 AMEND: 1380.19

Title 4

03/19/02 ADOPT: 12100, 12102, 12104, 12106, 12108, 12120, 12130
 02/13/02 AMEND: 1691
 02/06/02 AMEND: 1858
 01/31/02 AMEND: 1467
 01/28/02 AMEND: 1844
 01/18/02 ADOPT: 2081
 01/11/02 ADOPT: 4160, 4161, 4162, 4263, 4164, 4165, 4166, 4167, 4168, 4169, 4170, 4171 REPEAL: 4160, 4161, 4162, 4164, 4167, 4168, 4169, 4170, 4171, 4172, 4173, 4174, 4175
 01/10/02 ADOPT: 2078
 01/07/02 ADOPT: 2073

01/07/02 ADOPT: 2076
 01/07/02 ADOPT: 2082
 01/07/02 ADOPT: 2071
 01/07/02 ADOPT: 2072
 01/04/02 ADOPT: 2083
 01/03/02 ADOPT: 2075
 01/03/02 ADOPT: 2077
 01/03/02 ADOPT: 2080
 01/03/02 ADOPT: 2079
 01/03/02 ADOPT: 2074
 01/03/02 ADOPT: 2070
 12/12/01 REPEAL: 143.4
 12/11/01 AMEND: 1979
 12/10/01 AMEND: 1969
 11/29/01 ADOPT: 12130
 11/20/01 AMEND: 376, 377
 11/19/01 ADOPT: 12100, 12102, 12104, 12106,
 12108, 12110, 12120
 11/19/01 ADOPT: 10300, 10302, 10305, 10310,
 10315, 10317, 10320, 10322, 10325,
 10326, 10327, 10328, 10330, 10335,
 10337 AMEND: 10317(c)

Title 5

03/15/02 ADOPT: 11963, 11963.1, 11963.2,
 11963.3, 11963.4
 03/12/02 ADOPT: 18400, 18405, 18406, 18407,
 18408, 18409, 18409.5, 18410, 18411,
 18412, 18413, 18414, 18415, 18416,
 18417, 18418, 18419, 18420, 18421,
 18422, 18423, 18424, 18425, 18426,
 18427, 18428, 18429, 18430, 18431,
 18432, 18433, AMEND: 18409.5,
 18409(e),
 03/01/02 ADOPT: 11967.5, 11967.5.1
 02/19/02 ADOPT: 55753.5, 55753.7 AMEND:
 55753
 01/24/02 AMEND: 11530, 11531
 01/24/02 AMEND: 43880, 43881, 43882, 43883,
 43884
 01/08/02 AMEND: 1031, 1032, 1033, 1034, 1035,
 1036, 1037, 1038, 1039
 01/08/02 REPEAL: 11820, 11822, 11823, 11827,
 11828, 11829, 11831, 11832, 11833,
 11834
 01/07/02 AMEND: 42713
 01/07/02 AMEND: 73000, 73010, 73100, 73110,
 73120, 73130, 73140, 73150, 73160,
 73165, 73170, 73180, 73190, 73200,
 73210, 73230, 73240, 73260, 73270,
 73280, 73290, 73300, 73310, 73320,
 73330, 73340, 73350, 73360, 73380,
 73390, 73400, 73410, 73420, 73430,
 73440,
 12/27/01 ADOPT: 31000, 31001, 31003, 31004,
 31005, 31006, 31007
 12/26/01 AMEND: 80487

12/21/01 ADOPT: 1215, 1216, 1217, 1217.5, 1218,
 1219, 1219.5
 12/21/01 ADOPT: 31000, 31001, 31002, 31003,
 31004, 31005, 31006, 31007
 12/18/01 AMEND: 30950, 30951, 30951.1, 30952,
 30953, 30954, 30955, 30956, 30957,
 30958, 30959
 12/14/01 AMEND: 41802 REPEAL: 41802.1,
 41913
 12/12/01 AMEND: 80225
 12/05/01 ADOPT: 20430, 20432, 20434, 20436,
 20438, 20440, 20442, 20444
 12/03/01 AMEND: 55316.5, 55317, 28003.1,
 58009
 11/28/01 AMEND: 43810
 11/27/01 AMEND: 42933
 11/26/01 AMEND: 22000
 11/19/01 AMEND: 80026, 80027
 11/15/01 AMEND: 1032 (i)

Title 7

12/11/01 ADOPT: 236
 11/27/01 ADOPT: 212.5

Title 8

03/05/02 AMEND: 3251
 02/22/02 ADOPT: 11010, 11020, 11030, 11040,
 11050, 11060, 11070, 11080 REPEAL:
 11010, 11020, 11020, 11040, 11050,
 11060, 11070, 11080
 02/14/02 AMEND: 17
 02/08/02 AMEND: 3641, 3648
 01/30/02 ADOPT: New Appendix D AMEND:
 450, 453, 471, 475, 477, 494 REPEAL:
 486, 487
 01/17/02 ADOPT: 206, 207 AMEND: 201, 205,
 208, 212, 212.01, 212.2, 212.3, 212.4,
 228, 229, 230, 231, 230.1, 230.2, 234.2
 01/17/02 AMEND: 5155
 01/15/02 ADOPT: 17201, 17202, 17203, 17204,
 17205, 17206, 17207, 17208, 17209,
 17210, 17211, 17212, 17220, 17221,
 17222, 17223, 17224, 17225, 17226,
 17227, 17228, 17229, 17230, 17231,
 17232, 17234, 17235, 17236, 17237,
 17240, 17241, 17242, 17243, 17244,
 17245, 17
 01/15/02 ADOPT: 14300.1, 14300.2, 14300.03,
 14300.04, 14300.05, 14300.06, 14300.07,
 14300.08, 14300.09, 14300.10, 14300.11,
 14300.12, 14300.13, 14300.14, 14300.15,
 14300.16, 14300.17, 14300.18, 14300.19,
 14300.20, 14300.21, 14300.22, 14300.23,
 14300.24, 14300.25,
 01/04/02 ADOPT: 11170 AMEND: 11160
 01/03/02 AMEND: 3472, 4884, 4885, 4886, 4907,
 4924, 4965, 4966, 4968
 12/31/01 AMEND: 9792.1

12/26/01 AMEND: 1532.1
 12/24/01 AMEND: 31100
 12/04/01 ADOPT: 32015, 32016, 32325, 32603,
 32604, 6000, 60010, 60020, 60030,
 60035, 60040, 60050, 60070, 61000,
 61005, 61010, 61020, 61030, 61040,
 61050, 61055, 61060, 61065, 61070,
 61072, 61075, 61080, 61090, 61100,
 61105, 61110, 61115, 61120, 61125,
 61130, 611
 11/29/01 AMEND: 5031(c)(3)
 11/19/01 AMEND: 341.15

Title 9

01/17/02 ADOPT: 9533 AMEND: 9500, 9505,
 9510, 9515, 9517, 9520, 9525, 9530,
 9532, 9535, 9540, 9545
 12/12/01 ADOPT: 9500, 9505, 9510, 9515, 9517,
 9520, 9525, 9530, 9532, 9533, 9535,
 9540, 9545
 12/10/01 AMEND: 7050, 7051, 7053, 7054, 7056,
 7057

Title 10

03/18/02 ADOPT: 1422 & 1423
 02/27/02 AMEND: 2498.6
 02/26/02 ADOPT: 2581.1, 2581.2, 2581.3, 2581.4
 02/11/02 AMEND: 4019
 02/11/02 AMEND: 5002
 02/11/02 AMEND: 10.3154
 02/07/02 AMEND: 260.102.19, 260.140.41,
 260.140.42, 260.140.45, 260.140.46
 01/31/02 ADOPT: 2130, 2130.1, 2130.2, 2130.3,
 2130.4, 2130.5, 2130.6, 2130.7, 2130.8
 01/31/02 ADOPT: 2192.1
 01/10/02 AMEND: 2318.6, 2353.1
 01/09/02 AMEND: 2248.31, 2248.32, 2248.35,
 2248.40, 2248.41, 2248.42, 2248.47
 01/08/02 AMEND: 5460, 5461, 5462, 5463, 5464,
 5465
 12/31/01 ADOPT: 2695.30
 12/31/01 ADOPT: 1729, 1741.5, 1950.302
 AMEND: 1741.5
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